INJURED IN THE COURSE OF DUTY

by William Hard
and others

INDUSTRIAL ACCIDENTS

How They Happen
How They Are Paid For
How They OUGHT to be Paid For

A PLAN
ON WHICH LABOR AND CAPITAL CAN
UNITE TO THE ADVANTAGE OF BOTH

INJURED IN THE COURSE OF DUTY

By WILLIAM HARD
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Reprinted, with some additions, from
EVERYBODY'S MAGAZINE

BEING AN EXPOSITION AND SOME CONCLUSIONS ON THE SUBJECT OF

INDUSTRIAL ACCIDENTS

HOW THEY HAPPEN, HOW THEY ARE PAID FOR, AND HOW THEY *OUGHT TO* BE PAID FOR

A PLAN

ON WHICH LABOR AND CAPITAL CAN UNITE TO THE ADVANTAGE OF BOTH

AS we have said in the magazine, the basis of our business is the necessity for earning a living.

But the same spirit that from time to time prompts you, Mr. Manufacturer, and you, Mr. Banker, and you, Mr. Foreman, and you, Mr. Legislator, to depart from your ordinary rules and to give lavishly of your time and money to some cause that seems to you good—that same spirit impels us to print this work.

We spent a great deal of money in getting the material for *Everybody's Magazine*, and a great deal more in trying to wake our three million readers to an interest in it.

But we want it to go further. We want it to count in the industrial life of this nation. And we do *not* want to be classed with those of whom Sydney Smith said, "*You find people ready enough to do the Samaritan without the oil and twopence.*" So we have again gone down into our pockets, this time for a larger sum, and you have the book without price. Our hope is that after reading it, you will enroll yourself with those who feel that nothing which concerns man should be a matter of indifference to any man.

THE RIDGWAY COMPANY.

BAD FOR LABOR AND CAPITAL

I.—Too Many Accidents.

Accidents in coal mines in the States of Illinois and Pennsylvania in the year 1907 left behind them a broken, demoralized retinue of 910 widows and 2,074 orphans. The 500,000 annual accidents in the total industries of the United States mean not only intolerable physical anguish for the victims but impaired support, defective education, sorrow and charity for the survivors. They also mean incalculable loss of time and energy in business. Fully half of all this waste and pain and grief is preventable.

II.—A Barbarous System of Paying for Accidents.

Our law of accidents does not provide legal compensation in one case out of ten. In the other nine cases the victim gets compensation only by becoming either a beggar or a buccaneer. He becomes a buccaneer when, as in hundreds of thousands of cases, he brings suits which have no merit in law. And hundreds of thousands of juries stand ready to award verdicts not in obedience to law but in obedience to a sense of justice. Hence litigation. We spend more money on litigation to-day than we do on compensation. And then we spend still more money on poorhouses, widows' homes, and juvenile reformatories. We are not saving money. We are simply expending it in such a way as to cause the maximum of suffering, uncertainty, poverty, and crime.

NATIONAL WASTE

A weakening of the Human Power of the Nation in International Competition.

GOOD FOR LABOR AND CAPITAL

I.—Rigid Accident-Prevention Laws.

If our accident rate in coal mines were reduced to the level of the rate in Great Britain, we should save the lives of 915 American miners every year. This saving will never be accomplished by private initiative alone. In the coal business and in every other business the humane employer who goes to the expense of installing safety devices must be protected from the unfair competition of inhuman rivals. There must be equality of expense, guaranteed by public law.

II.—Automatic Compensation for All Accidents.

For twenty-five years, throughout the German Empire, all industrial accidents have been regarded not as matters of personal negligence but as matters of trade risk. Compensation has been compulsory and immediate. During that same period the German Empire (considering its disadvantages in the way of inferiority of natural resources, militarism and congested population) has made more industrial progress both at home and in the markets of the world than any other country. German statesmen believe that automatic compensation for all accidents, instead of retarding this progress, has accelerated it. Accident money, instead of being spent uselessly in litigation, or deviously and dilatorily in charity, is spent immediately and directly on the repair of the physical and financial misfortune caused by the accident.

NATIONAL ECONOMY

A Saving of Physical and Financial Strength for the World Struggle.

Be Sure You Read the Expert Opinions of an Employer, a Labor Leader, a Lawyer, and an Economist on pages 109 to 122.

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HOW ACCIDENTS HAPPEN

MAKING STEEL AND KILLING MEN

(Reprinted from "Everybody's Magazine," the issue of November, 1907. The facts, human and statistical, must be taken as of that date.)

EDITOR'S NOTE.—"The English idea with regard to blast-furnaces is to run moderately and save the lining. What do we care for the lining? We think that a lining is good for so much iron, and the sooner it makes it the better."—Charles S. Price, Superintendent of the Cambria Steel Works at Johnstown, Pa.

Forty-six men were killed in accidents last year in the South Chicago plant of the United States Steel Corporation. There was no great casualty. The largest number killed at any one time was four. Two other accidents accounted for two men apiece. All the rest were killed singly. During the course of the year, therefore, there were forty-one separate accidents that resulted in the destruction of the one valuable thing in the world, human life.—From records of Chicago Coroner's Office.

Have we in America the same attitude toward human beings that we have toward the linings of

blast-furnaces? Do we think that a man is good for so much iron and steel, and the quicker he makes it the better? Must he then go to the graveyard just as the lining of the blast-furnace goes to the junk-heap?

THE South Chicago plant of the United States Steel Corporation stretches along the shore of Lake Michigan for a distance of about two miles northward from the broad mouth of the Calumet River.

This plant, as you see it from the deck of a yacht out in the lake, is just an opaque mass of smoke, thirty million dollars' worth of smoke. You may descry, it is true, certain dim outlines of multitudinous buildings, like the faint surmises of a dream. You may be diverted by the long rows of slender smokestacks, rearing their heads through the smoke and standing shoulder to shoulder at rigid attention as if they were about to salute. You may be thrilled by the three thin, wavering tongues of flame that spurt up from the throats of the Bessemer converters and fight their way through the thick layers of their imprisonment, like fleeting spirits, to the clear air above. But these things are mere modifications of the central theme, which is smoke, a mountain of smoke, or, rather, a cave of smoke. For the mountain is hollow, and in its interior ten thousand men are at work.

Here, in the smoke on the north bank of the Calumet, forty-six men performed their final earthly act last year. Here, at the edge of the plant, just inside the high white board fence, stands the company's private hospital, with fifty

beds, a chief surgeon, two assistant surgeons, an interne, and three nurses. Here, in the inquests held in the undertakers' shops in the neighborhood of the plant, the United States Steel Corporation, in the person of the Illinois Steel Company, was censured six times last year by coroner's juries. Here, at the time when ten men were injured in the pig-casting department, the Building Department of the City of Chicago was forced to intervene and to admonish the company that "a little diligent thought and precaution on your part would minimize the occurrence of such accidents." Here the number of the dead who are reported to the coroner, furnishes the only clew to the number of the merely burned, crushed, maimed, and disabled, who are reported to nobody.

But let us make an estimate (and it will have to be a rough one, for there are no local statistics) of the number of men burned and crushed and maimed and disabled in the plant of the Illinois Steel Company last year, as compared with the number of men actually killed.

The best statistics on such subjects are those of the German Government, which, as it has established a system of compulsory insurance, is in a position to know exactly what is happening in the manufacturing establishments within its jurisdiction.

From these statistics (covering a period of twelve years) it appears that for every man killed in Germany there were eight who suffered a permanent disability of either a partial or a total character. It further appears that for every man killed, four were disabled temporarily,

which, in the German statistics, means for at least thirteen weeks.

If the law of averages is the same in Chicago as it is in Berlin (and there is no reason to suppose that it isn't), the record of casualties at the South Chicago plant of the United States Steel Corporation would read as follows:

Dead	46
Disabled temporarily (for at least 13 weeks)	184
Disabled permanently	368
Total	598

The record of the long battle in the cave of smoke on the north bank of the Calumet River for the year 1906 would therefore present 598 killed and wounded men to the consideration of a public which would be appalled by the news of the loss of an equal number of men in a battle in the Philippines.

And it should be remembered that the estimate here given does not include any of those men who suffered injuries which disabled them for a period of less than the thirteen weeks above mentioned. If such cases were included, the total number of casualties would be enormously increased. Minor accidents are far more numerous than those of a serious nature. The total number of all accidents, major and minor, at the plant of the Illinois Steel Company would certainly be more than twice as large as the number of major accidents which we have already computed.

If, therefore, 598 men were involved last year in major accidents, entailing, at the least, a dis-

ability of thirteen weeks each, there must have been at least 1,200 men who were involved in accidents of all kinds. Doctors who have been employed in the hospital of the Illinois Steel Company place the number even higher. They have said that there are at least 2,000 accidents every year. But many of these accidents extend only to the painful scorching of a leg. If the figure be kept at 1,200, it will be a conservative estimate, including only those injuries that may be legitimately regarded as being of material consequence.

Here, then, is the record of one American industrial establishment for one year! It is not an establishment that enjoys any preëminence in heartlessness. If it were, there would be no use in writing an article about it. The exceptional proves nothing. But the plant in South Chicago is just an American plant, conducted according to American ideals. Its officials are men whom one is glad to meet and proud to know. And yet in the course of one year in their plant they had at least 1,200 accidents that resulted in the physical injury, the physical agony, of human beings.

Must we continue to pay this price for the honor of leading the world in the cheap and rapid production of steel and iron? Must we continue to be obliged to think of scorched and scalded human beings whenever we sit on the back platform of an observation-car and watch the steel rails rolling out behind us? Is this price necessary, or could we strike a better bargain if we were shrewder and more careful?

A partial answer to these questions will sug-

gest itself as we go along. We shall learn something by leaving general statistics at this point and by descending to particular individual instances. When the American Institute of Social Service tells us that 536,165 Americans are killed or maimed every year in American industry, our minds are merely stunned. But the specific case of Ora Allen, on the twelfth day of December, 1906, has a poignant thrust that goes through the stunned mind to the previously untouched recesses of the heart.

Ora Allen is Inquest 39,193 in the Coroner's Office in the Criminal Court Building downtown. On the twelfth of last December he was a ladleman in the North Open Hearth Mill of the Illinois Steel Company, twelve miles from downtown, in South Chicago. On the fifteenth he was a corpse in the company's private hospital. On the seventeenth his remains were viewed by six good and lawful men at Griesel & Son's undertaking shop at 8946 Commercial Avenue.

The first witness, Newton Allen, told the gist of the story.

On the twelfth of last December Newton Allen was operating overhead crane No. 3 in the North Open Hearth Mill of the Illinois Steel Company. Seated aloft in the cage of his crane, he dropped his chains and hooks to the men beneath and carried pots and ladles up and down the length of the pouring-floor.

That floor was 1,100 feet long, and it looked longer because of the dim murkiness of the air. It was edged, all along one side, by a row of open-hearth furnaces, fourteen of them, and in

each one there were sixty-four tons of white, boiling iron, boiling into steel. From these furnaces the white-hot metal, now steel, was withdrawn and poured into big ten-ton molds, standing on flat cars. When the molds were removed, the steel stood up by itself on the cars in the shape of ingots. These ingots, these obelisks of steel, cooled to solidity on their outsides but still soft and liquid within, were hauled away by locomotives to other parts of the plant.

It was a scene in which a human being looks smaller than perhaps anywhere else in the world. You must understand that fact in order to comprehend the psychological aspect of accidents in steel-mills.

On the twelfth of last December, Newton Allen, up in the cage of his 100-ton electric crane, was requested by a ladleman from below to pick up a pot and carry it to another part of the floor. This pot was filled with the hot slag that is the refuse left over when the pure steel has been run off.

Newton Allen let down the hooks of his crane. The ladleman attached those hooks to the pot. Newton Allen started down the floor. Just as he started, one of the hooks slipped. There was no shock or jar. Newton Allen was warned of danger only by the fumes that rose toward him. He at once reversed his lever, and, when his crane had carried him to a place of safety, descended and hurried back to the scene of the accident. He saw a man lying on his face. He heard him screaming. He saw that he was being roasted by the slag that had poured out of the pot. He ran up to him and turned him over.

"At that time," said Newton Allen, in his testimony before the jury, "I did not know it was my brother. It was not till I turned him over that I recognized him. Then I saw it was my brother Ora. I asked him if he was burned bad. He said, 'No, not to be afraid—he was not burned as bad as I thought.'"

Three days later Ora Allen died in the hospital of the Illinois Steel Company. He had told his brother he wasn't "burned bad," but Ira Miltimore, the doctor who attended him, testified that his death was due to a "third-degree burn of the face, neck, arms, forearms, hands, back, right leg, right thigh, and left foot." A third degree burn is the last degree there is. There is no fourth degree.

But why did the hook on that slag-pot slip?

Because it was attached merely to the rim of the pot, and not to the lugs. That pot had no lugs. It ought to have had them. Lugs are pieces of metal that project from the rim of the pot, like ears. They are put there for the express purpose of providing a proper and secure hold for the hooks. But they had been broken off in some previous accident and they had not been replaced. On the twelfth of last December the ladleman had been obliged to use the mere rim, or flange, of the pot, and with that precarious attachment the pot had been hoisted and carried.

"Is it dangerous to carry a pot by its flange?" asked the deputy coroner.

"It is," said Newton Allen, "but it is the duty of the ladleman to put the hooks on the pot. I work on signal from him."

Mike Skiba, the ladleman, being summoned,

testified that he had attached the hooks to the pot by the flange, but that he had no orders against attaching them in that way.

John Pfister, the boss ladleman, Mike Skiba's superior, said, on oath: "I have no orders not to raise the slag-pots when the lugs are broken off."

George L. Danforth, the superintendent of the North Open Hearth Mill, an expensive man, who might himself have been killed on the occasion in question, because his duties oblige him to frequent all parts of the mill, testified that "pots had been raised in the manner described for three or four years and that this was the first time that one of them had fallen."

What did the jury think? It thought as follows:

"We, the jury, believe that slag-pots should not be handled without their lugs, and we recommend that the lugs be replaced before the pots are used in the future."

So came to an end the case of Ora Allen, burned to death by the slag from a pot that was being hoisted by his brother. Was it a necessary tragedy? Was all that agony, all the horror that filled the soul of Ora Allen's brother when he turned him over and recognized him, was all that wait of three days for death in the hospital, a necessary incident in the production of steel? The coroner's jury evidently did not think so, although such a jury is notably reluctant to utter a censure.

As I read the testimony and afterwards looked at that gigantic, that deafening and hypnotizing North Open Hearth Mill, my mind was carried

back to the American locomotive engineer who astonished Mr. Kipling when he was on his first visit to this country. The train was just starting across a trestle that looked as if it were ready to crumble away, on the slightest provocation, into the mountain torrent beneath. Mr. Kipling remonstrated, and the engineer, in reply, gave utterance to the whole philosophy of American business life. He said:

"We guess that when a trestle's built it ought to last forever. And sometimes we guess ourselves into the depot. And sometimes we guess ourselves into hell."

The company will tell you, very straightforwardly and very honestly, that it is impossible to prevent the men from being reckless, that it is beyond human power to prevent the men from hooking up slag-pots by their flanges. The men get in a hurry and they become careless.

There is a good deal of truth in this observation, as I shall show later. The men do get careless and, under our outdated but unrepealed laws, the carelessness of a ladleman, resulting in the death of a fellow ladleman, will relieve the company from all money liability for that ladleman's death. It is impossible that men in steel-mills should not grow careless. It is part of the inevitable psychological consequence of working next to a three-mouthed monster with sixty-four tons of boiling metal in its insides. But suppose, just suppose, that instead of being relieved from all money liability by the carelessness of a ladleman toward a fellow ladleman, suppose, just suppose that the company had to pay a flat fine of $20,000 every time a ladleman was killed. Do you

think that any slag-pot would ever be raised by its flange?

That is the real question. And the answer is, No. The United States Steel Corporation has too much ability, it has done too many wonderful, too many almost impossible things, to fail in such a project of prevention. But the cold fact is that there is no adequate incentive to the prevention of carelessness among employees. There is a perfectly adequate incentive to the prevention of laziness. The lazy employee is discharged. Let society once provide the capable intellect of the United States Steel Corporation with a sufficient reason for preventing carelessness, and it will be the one best bet of the age that there will be no more carelessness in any of the United States Steel Corporation plants.

The forty-six men who were killed last year in the South Chicago plant of the United States Steel Corporation went to their deaths by a large number of different and divergent routes. Twelve of them were killed in the neighborhood of blast-furnaces. One of them was hurled out of life by a stick of dynamite. Three of them were electrocuted. Three of them were killed by falls from high places. Four of them were struck on their heads by falling objects. Four of them were burned to death by hot metal in the Bessemer Converter Department, where, as in the Open Hearth Department, iron is transformed into steel. Three of them were crushed to death. One of them was suffocated by the gas from a gas-producer. One of them was thrown from an ore-bridge by a high wind. One of them was hit by a red-hot rail. One of them, Ora

Allen, was scorched to death by slag. And ten of them were killed by railroad cars or by railroad locomotives.

This last fact seems most extraordinary, most inexplicable, until an inspection of the plant is made. There are about one hundred and thirty miles of track in that plant, broad-gauge track, narrow-gauge track, stretching across open spaces, wiggling between dead walls, swerving around corners, darting through buildings, running in twenties, running in couples, climbing up to the mouths of the Bessemer converters, descending to the level of the lake shore, creeping across the Calumet down and away to Indiana.

And there are cars, cars carrying coke, cars carrying limestone, cars carrying ladles of liquid iron, cars carrying pots of hot slag, cars carrying ingots of red steel.

And there are locomotives, all kinds of locomotives, all the way from the through freight locomotive that can haul eighty cars of coke to the little "dinky" locomotive that looks like a toy and that hauls the steel ingots from the Bessemer and Open Hearth Departments to the rail-mill, the slabbing-mill, the blooming-mill, the billet-mill, and the structural-shape mill.

At the south end of the plant there is a high bridge that spans a series of switching-tracks. Elsewhere the men go across at grade. There are danger signs, but it is useless to expect a Slovenian who has worked all day in the heat and glare and stress of a blast-furnace to pay much attention to a danger sign, especially if he doesn't know how to read, which he usually

doesn't. There will be more bridges and a few subways in the South Chicago plant of the United States Steel Corporation before that corporation is many years older. As things stand to-day, the men have come to expect the danger signs to be supplemented by the puffing and clanging of the locomotive and by the cries of the engineer.

This point of view was admirably illustrated by a man who was injured not long ago but who fortunately recovered. He described his accident succinctly as follows:

"No choo choo! No ling ling! No God damn you get out of the way! Just run over!"

The only death-dealing force that exceeded the railroad last year in the Illinois Steel Company plant was the blast-furnace.

There are eleven blast-furnaces in the plant. Each of them is a fire-brick and cast-iron giant a hundred and fifty feet high and containing from six hundred to a thousand tons of tumultuous material. When you feed it at its top with coke, limestone, and iron ore, you cannot tell exactly what is happening inside it, until, from the tapping-hole at its base, you withdraw the pure iron and the refuse that is called slag. Its digestive tract is too long and too well concealed. A blast-furnace is like a human being. When it is in trouble you have to make a diagnostic guess from the outside.

On the ninth of last October, at about ten o'clock in the evening, Walter Stelmaszyk, a sample-boy, went to one of the blast-furnaces to get a sample of iron to take to the laboratory. He stood at one of the entrances to the platform.

The bright, liquid iron was running out of its tapping-hole and flowing in a sparkling, snarling stream along its sandy bed to the big twenty-ton ladle that stood beside the platform on a flat-car. Walter Stelmaszyk stood still for a moment and gazed at this scene. It was well for him that he hesitated. Suddenly there came a flash, a roar, and a drizzle of molten metal. Milak Lazich, Andrew Vrkic, Anton Pietszak, and Louis Fuerlant lay charred and dead on the casting-floor.

What was the cause of the accident?

The expert witnesses, employed around the blast-furnace, all agreed that the hot metal had come in contact with water.

And how did it come in contact with water?

Here, again, the expert witnesses were in agreement.

About two months before the accident, the keeper of the furnace had called the attention of the foreman to a little trickling of water around the tapping-hole. An examination was made and it was found that some of the fire-brick at one side of the tapping-hole had fallen out. The foreman reported this fact to his immediate superior. *But the fire-brick was not replaced.* Patches of fire-clay were substituted for it. These patches were renewed from time to time. They wore out very rapidly.

On the night of the ninth of October, according to all the experts at the trial, the fierce molten iron ate its way through the fire-clay and came in contact with a water-coil. The union of the hot iron with the water resulted in the explosion and in the sacrifice of four human lives.

It is true that no similar accident had ever be-

fore happened. The company did not mean to kill those men. I am making no such foolish charge. But, as in the case of Ora Allen, I ask the question whether or not the company would exercise a stricter surveillance over the recklessness of its foremen and workingmen if it had a stronger pecuniary incentive. In other words, if the company were offered a prize of a million dollars for getting through a year without one single fatal accident, would it then allow patches of fire-clay to be used as a substitute for fire-brick around the tapping-hole of any furnace in its plant? Would it not find a way to prevent such makeshift methods effectually and finally?

When the accident had happened, the water in the coil just next to the place where the fire-clay had been eaten away and where the explosion had originated was shut off. The man who shut it off was a pipe-fitter, G. H. Hunter.

"In your opinion," said the deputy coroner, "would it have been safe to run the furnace before this accident with the water a little bit further away from the tapping-hole?"

"No, sir."

"Is the furnace running that way now?"

"Yes, sir."

"Is it safe now?"

"No, sir, not as safe as it was when the water was running."

And it was while the water was running that the accident happened and that the four men were killed. Before the accident the furnace was evidently in a dangerous condition. After the accident it was apparently in a still more dangerous condition!

How can the Illinois Manufacturers' Association think, when such evidence, given under oath, is public property, that the State of Illinois or the United States of America will continue to regard the killing and maiming of employees as an entirely private matter between those employees and the company in whose service they were slaughtered or injured? All sentiments of humanity offer an invulnerable negative to that proposition. And so also, I shall show later, do all considerations of enlightened selfishness.

The total number of men killed last year by blast-furnaces in the plant of the Illinois Steel Company was twelve. Not all of these men were burned to death. Some were struck by flying objects and some were asphyxiated by the gas which constantly escapes from the pores of a blast-furnace and which can sometimes be seen, burning with a ghastly blue flame, along the crevices between the bricks.

I am perfectly willing to admit that it is exceedingly difficult to prevent all exhibitions of recklessness even in cases in which the company has provided certain measures of precaution. This is intended to be a fair article. It would do no permanent good unless it were fair. And recklessness is certainly a psychological characteristic of men in steel-plants. All tradition teaches them to be reckless. The very example of their superiors teaches them to be reckless. The assistant superintendent of the plant that the Illinois Steel Company maintains at Joliet stepped on an unprotected gear and lost his leg just after he had warned his men not to be guilty of any such culpable negligence of their

own safety. I am willing to admit the existence of culpable negligence altogether apart from the negligence of the company. And not only that, but I am also willing to give a specific illustration.

I was standing one day on the platform of a blast-furnace. All at once, unexpectedly, I heard the four whistles that indicate danger. There was a "hang" in the furnace. The whirling, eddying mass of ore, coke, and limestone in the high interior of that furnace had got caught somewhere, somehow, and was refusing to come down. When it did come down, there would be a crash, and, perhaps, an explosion.

I ran and got behind a brick pillar. On coming into the plant that morning I had signed a piece of paper, just the same kind of piece of paper that every visitor signs, saying that I would not hold the Illinois Steel Company responsible for anything that might happen to me. I reflected that nobody would profit by my demise. But observe what the other men around that blast-furnace did!

I could see them as I peered out from behind my brick pillar. Those of them who were already in front of the furnace looked up at it with an expression of profound curiosity on their faces. Two other men who had been standing at the back of the furnace ran all the way around it and came out in front! There they all stood, hurling their mute interrogatories at the crafty, reticent volcano that might nevertheless the next moment hurl forth an indignant answer at their heads!

In a steel-mill there is still another element

besides recklessness to be considered. It is this:

Most steel-men have come up from the ranks. They have themselves risked their lives. They have become hardened to scenes that chill the blood of the fresh observer.

Most steel-men in the United States to-day (and I am talking of steel-men, not financiers) have themselves leaped those flaming streams of angry metal, have themselves dodged the red-hot, writhing steel snakes that hiss through the big cast-iron rolls of the rail-mill on their way to the straightening-beds, have themselves fallen dizzy to the ground with the gaseous breath of the blast-furnace stoves in their lungs.

Steel is War. When it is finished it brings forth, for the victors, Skibo Castles and Peace Conferences. But while it is in process it is War.

The superintendent of the South Chicago plant of the United States Steel Corporation is a young man named Field, William A. Field. I investigated his career.

When he came to the South Chicago plant from Kentucky *via* Stevens Institute, his first day's work lasted twenty-four hours. When he had worked twelve hours, his foreman said to him: "Run home now and get a bite to eat and be back here as soon as you can." He came back and worked twelve hours longer.

To-day they have a fiendish institution at the South Chicago plant called the twenty-four-hour shift. Eighteen hundred men in that plant work for twenty-four hours without stopping, on every alternate Sunday. They begin on Sunday morning and work through without a pause till Mon-

day morning at seven o'clock. In order to keep awake, some of the men cultivate a keen intellectual interest in the mechanical processes about them. Others swallow chewing tobacco. It is a frightful stretch of time. But William A. Field not only worked that twenty-four-hour shift on his own account when he was sculling ladles (which means cleaning the slag out of them) but, even after being promoted from that menial employment, he has worked seventy-two hours at a stretch without sleeping, and has worked one hundred and sixty-eight hours without any other kind of sleep than that which can be gathered from a hard chair in a dark corner.

What is the use of talking to a man like that about the severity of a twenty-four-hour shift? When two sheets in the steam-pipe in the pump-room of the rail-mill were blown out and three men and a boy were killed, Field worked from Sunday evening to Wednesday evening without ever closing his eyes. And then he spent the rest of Wednesday evening at the opera. And when the rail-mill at Joliet was frozen up by a cold winter, Field stayed in the mill a whole week, with a chair for a bed, and kept that mill from complete stagnation at the cost of seven nights' sleep and also at the cost, in all probability, of three or four years of his life.

On one occasion Field was knocked twenty feet by a stray crowbar and experienced some difficulty in recovering. On another occasion the top of his hat was shaved neatly off by a hot rail which just missed shaving off his scalp. On still another occasion he walked off a dock into

the Calumet River and was pulled out just in time.

I admire such a man. There is no man I admire more. But I deny that he constitutes a good judge of ordinary human safety for ordinary human beings. He is an exceptional man who enjoys an exceptional reward. He therefore risks his life and becomes superintendent. The ordinary man risks his life and does not become superintendent. It is for him that measures of safety are demanded. His only possible reward is a continuance of the life that God has given him.

Nevertheless, if you want to understand the psychology of a man like Field, just stand in front of the three converters in the Bessemer Department. There they swing and sway and tip, shaped like the enormous, mythical eggs attributed to that strange and never-yet-discovered bird called the roc by the Oriental authors of the "Arabian Nights." It is only the roc that could have laid such eggs. They contain fifteen tons apiece. They receive iron. They produce steel. The metal within them, tossed by currents of compressed air, boils and bubbles. When they tip over, to discharge their burdens into the ladles beneath, they fill the whole building with fluttering sparks and thick, whirling fumes which vary in color from light gray to deep orange. The clothes of the men in this department are filled with fine holes burned in them by the sparks. When the ladles are filled, the boiling metal exudes queer little tender blue flames all over its white surface. The men call this weird display "the devil's flower-garden." With

less apparent poetry they have nicknamed the steel ingots in which the metal finally leaves the Bessemer Department on flat-cars, calling them "hot tamales."

I make all due allowance for the diabolical hypnotism exercised over the men in a steel-mill, from highest to lowest, by the overwhelming majesty of the instruments with which they work. *And for that very reason I believe in the intervention of the public authorities, and in the supervision that is exercised over industrial establishments in many of the countries of Europe by public officials who have not been hypnotized by daily intercourse with Bessemer converters.*

And at the same time I wish to give all due credit to the present management of the Illinois Steel Company. It has shaken itself almost awake from the hypnotism of the Bessemer converters. It has devoted itself, so far as its lights extend, to the reformation of its plant. It has established a Safety Department. This department is partly selfish, partly philanthropic. It has photographers who take a picture of every accident, just as soon as it has happened, for the purpose of furnishing evidence in the courts if the relatives of the deceased should sue for damages. But it also suggests changes to be made in the construction of the plant for the purpose of preventing future accidents. The motive in this case, is I fully believe, disinterested. The present laws of Illinois on the subject of industrial accidents furnish no other adequate motive. And, on the basis of the recommendations of its Safety Department, the Illinois Steel Company made *three thousand changes last year* in the con-

struction of its plant. This fact is an eloquent commentary not only on the present awakenment of the company but also on the previous condition of the plant.

The operating men who manage the Illinois Steel Company are human beings. They do not wish to commit either murder or suicide. But Steel is War. And it is also Dividends. All the operating men in South Chicago, from William A. Field down to the lowest "Huniak" who now sculls the ladles that Mr. Field used to scull, are bound, hand and foot, by the desire to produce more steel this month than was ever before produced in South Chicago. The figures that indicate production and profits are the only figures handled and scrutinized by the members of the board of Directors of the United States Steel Corporation. Steel is War. And it is a war in which the commanding officers as well as the privates are exposed to the immediate fire of the enemy.

The greatest steel-man that America ever produced, Bill Jones, was killed by a blast-furnace. At the time of his death he was drawing a salary equal to that of the President of the United States. He went from this world to the world beyond in company with a dollar-a-day Hungarian laborer. Bill Jones was the man who put the United States ahead of Great Britain in the rapid and economical production of iron and steel. And if Bill Jones was killed by a blast-furnace, why not Steve Bragosimshamski?

That is the spirit of the War of Steel.

It is not surprising, therefore, that on the sixth of February, this year, the Building Department

of the City of Chicago, being a department of peace, was forced to intervene in the aftermath of an accident in the pig-casting department of the Illinois Steel Company. Ten or twelve men had been injured. A thirty-ton ladle had tipped all the way over and had wrecked the roof and sides of the building, besides subjecting the ten or twelve men above mentioned to considerable bodily discomfort.

During the previous year the company had made those three thousand changes in its plant. But it hadn't been able to make that pig-casting department safe. Building Commissioner Bartzen suggested that the thirty-ton ladles of hot iron should be anchored to the columns of the building in order to prevent them from tipping over. The company apparently had not thought of that. According to the public records of the Building Department in the City Hall in Chicago, the Illinois Steel Company accepted almost every suggestion made to it by the Building Department during the *régime* of Building Commissioner Bartzen. But it did not divine those suggestions on its own account before they were made.

I do not blame the Illinois Steel Company for failing to divine those suggestions. A company whose nose is close up against a thirty-ton ladle of molten iron has an almost sufficient excuse. But it is for that very reason, as I have previously indicated, that I here make an argument for public supervision.

This argument is based only in part on considerations of humanity. For practical purposes it rests on solid motives of *self-interest*. There

is not a single accident that happens to a laborer in the plant of the Illinois Steel Company or in any other industrial plant without tending, directly or indirectly, to loosen the strings of the public purse.

What happens to Steve Bragosimshamski's widow? What happens to his orphans, twelve years, ten years, eight years, six years, four years, two years, six months old? They do not evaporate. They do not comfortably disappear.

In eight cases out of ten, as I am prepared to prove by competent authority, the death of a Steve Bragosimshamski throws no legal money-liability on the company. What do the widow and the orphans do?

Ask the South Chicago Charitable Association. Ask the South Chicago Women's Benevolent Association. Ask the Catholic Aid Association. Ask the authorities at Glenwood, at Feehanville, at the St. Charles Home for Boys. Ask the superintendent of the Hudleston Home for Boys at Ewing. Ask the probation officers of the Juvenile Court. Ask the County Agent who distributes coal in winter-time. Ask the police officers of the Fifteenth Precinct station just off Commercial Avenue. Ask the officials of the County Poorhouse at Dunning. Ask the women who keep the houses of ill fame which line the street that runs along beside the high white fence of the company's plant south of Eighty-ninth Street.

For these things society pays. For poverty, demoralization, vice, and crime, the price is laid down by society either through the generosity

of private individuals or through the expensive and cumbrous action of public officials.

Nothing is gained without its price. If it is cheap to kill Steve Bragosimshamski, it is expensive to support his wife and family. And since society, in the long run, supports that wife and that family, it is inevitable that society shall seek to understand and to prevent the industrial accidents which encumber it with such burdens.

There are two remedies, therefore, that will certainly be applied to situations of the kind that we have been studying.

The first is complete publicity, including a report to the public authorities on every accident, fatal or non-fatal. And the second is the granting of power to the public authorities to supervise all machinery in all industrial establishments and to suggest and enforce such changes, within specified limits, as shall seem necessary.

A law embodying the first of these remedies was passed through the Illinois state legislature this year in the teeth of violent opposition. If it is enforced, it will do a world of good. A full public report on every industrial accident happening in the State of Illinois will inform the people as to the character and proportions of one of the greatest modern sources of pauperism, vice, and crime; it will stimulate the public demand for the public regulation of all dangerous machinery; it will excite the manufacturers to greater carefulness; and, above all, it will remove that veil of secrecy and mystery behind which the great manufacturing corporations now operate and through which the public eye discerns all the

faults of those corporations with indistinctness, suspicion, exaggeration, and hatred. When there is complete publicity with regard to all accidents, the manufacturing corporations will be more popular than they are to-day. One of the strongest fostering causes of class antagonism will have been eliminated.

I can give an apposite illustration of what I mean.

It is commonly believed in Chicago (and I have heard it given as a plain fact by scores of citizens) that the Illinois Steel Company conceals a large number of the deaths that happen in its plant and that it buries its victims secretly in mounds of slag. It is also reported that in the Illinois Steel Company hospital the patients are barbarously treated, and that while still in the delirium of pain they are forced to sign legal documents releasing the company from all legal money-liability for the accidents in which they were injured.

These stories are currently reported and implicitly credited. And they are absolutely untrue. The company does not, and cannot if it would, conceal any death in its plant. Its hospital is excellently appointed and superbly managed, and the chief surgeon, Dr. Burry, is a man of the highest professional standing and of the most sensitive self-respect. And there is no proof of any kind that Mr. Haynie, the lawyer in charge of the company's damage suits, has ever countenanced any extorting of releases from delirious or infirm patients.

But I had to disprove these stories by my own efforts. I should never have been obliged to go

to that trouble, and the company would never have been suspected of any such abominable practices, if there had always been complete publicity for all industrial accidents in all the manufactories of Illinois.

The second remedy I have suggested (namely, public supervision of dangerous machinery) was defeated in the last legislature by the Illinois Manufacturers' Association after a long fight in which the representatives of the Illinois Steel Company bore a conspicuous part. It was a selfish, short-sighted, inhuman fight. The manufacturers claimed to be in favor of the spirit of the bill but alleged that it was unreasonable. Nevertheless, they did not exert themselves to suggest amendments that would have removed its unreasonable features. They simply fought it. And they defeated it. In doing so they prepared a day of judgment for themselves. By their actions, if not by their words, they have taken the position that the public is not concerned with what happens in their plants. I have shown that the public is vitally concerned. And when such facts as I have presented in this article, without exaggeration and without malice, are completely understood, some even more severe bill than that which the Illinois Manufacturers' Association defeated at the last session of the legislature will be enacted into law and will place all dangerous machinery in all manufacturing establishments under the inspection and supervision of public experts.

The only persons who would ultimately suffer by the enactment of such a law would possibly be the undertakers. My last recollection of South

Chicago will be the undertakers. They made a kind of raid last year on the Illinois Steel Company plant in order to get the trade that comes with the inquests that are held on the corpses from the Illinois Steel Company hospital.

Every corpse goes to the nearest undertaker unless the relatives intervene. In consequence of this custom it is extremely desirable to have a location near the company's big gate. Hence the raid.

First Mr. Finerty, from 345 Ninety-second Street, moved down to 168. That move gave him precedence. But it did not last long. Mrs. Murphy abandoned her original location, moved along the street and settled down between Mr. Finerty and the mills. So far, so good. Mrs. Murphy was ahead of the game. But then came Mr. Adams, all the way from the outside of South Chicago, and swooped down on the corner of Mackinaw and Eighty-ninth. He is the final winner. He is closer to the plant to-day than either Mr. Finerty or Mrs. Murphy.

This comic interlude in the grim tragedy of South Chicago remains firmly fixed in the memory of the spectator, like the antics of the gravedigger in Hamlet. More essential incidents, more important facts, may fade away and disappear. But when you leave the cave of smoke on the north bank of the Calumet River; when you gaze at all that abomination of desolation in the foreign quarter of South Chicago, where no steel magnate, even though blessing a multitude of distant prairie towns with libraries, has ever left a single discernible trace of benevolence for the people who actually make the steel that pays for

the libraries; when you send your mind back over the wonderful, gigantic machinery, the superhuman processes, hidden in the cave of smoke behind you; why, even then, even while all these things are pressing upon your attention, they suddenly slip away from you, and as you take your seat in the train the last image that is presented to you is the race of those undertakers on toward the great gate of the plant. You see them coming closer and closer. You see them settling down and waiting. And then you see the dead bodies coming out from the plant and being carried into the back rooms and being lawfully viewed and having true presentment made as to how and in what manner and by whom or what they came to be what they are now.

Is the public concerned? If it says it is, then it is.

WHAT TO READ ABOUT ACCIDENTS

The literature of accidents is already too large to be mastered by anybody but a specialist. In the bulletins of the International Association for Labor Legislation, issued from Basel, Switzerland, there have appeared, during the last few years, the titles of hundreds of authoritative scientific books and articles dealing with the causes of accidents and with methods of prevention. This material, besides being excessive in amount, is often too technical for general use and is often quite unavailable for American readers. *Everybody's Magazine* has therefore selected the seven following sources of information which are readily available and which it

hopes may be of service to the employer, the labor leader, the lawyer, and the legislator who need condensed but reliable facts.

1. Bulletin Number 78 of the United States Bureau of Labor, September, 1908.
   Industrial Accidents—Frederick L. Hoffman—pp. 417–65, inclusive.
   (Write your Congressman.)

2. Bulletin Number 333 of the United States Geological Survey, 1907.
   Coal Mine Accidents—Hall and Snelling.
   (Write your Congressman.)

3. Bulletin Number 1, Minnesota Bureau of Labor, 1909.
   Industrial Accidents—Don D. Lescohier.
   (Write Wm. E. McEwen, Commissioner of Labor, St. Paul, Minn.)

4. Twenty-Second Annual Report of United States Commissioner of Labor, 1907.
   Labor Laws of the United States.
   Material on this subject to be located through index.
   (Write your Congressman.)

5. Legislative Review Number 1, American Association for Labor Legislation, 1909.
   Review of Labor Legislation of 1909—Irene Osgood.
   (Write John B. Andrews, American Association for Labor Legislation, Metropolitan Building, New York.)

6. Legislative Summary Number 1, American Association for Labor Legislation, 1909. Labor Laws in Force, 1909—John R. Commons.

   (Write John B. Andrews, American Association for Labor Legislation, Metropolitan Building, New York.)

7. Bulletins of the American Museum of Safe and Sanitation.

   (Write William H. Tolman, 29 W. 39 Street, New York.)

(References on Employers' Liability and on Automatic Compensation will be found on pages 70 and 107.)

HOW TO GET ACCIDENT-PREVENTION LAWS

Mr. Edgar T. Davies, Chief Factory Inspector of Illinois, could deliver a very helpful lecture on the Right Way and the Wrong Way of Trying to Get Accident-Prevention Laws. He has followed both.

The wrong way is to go into a corner, compose an excellent bill, crate it up, carry it down to the state capital, let it loose on the floor of the legislature and watch the alarmed employers of the state pounce on it and shake it to death.

The right way is to make the employers help compose the bill. When a human being finds himself cast for the rôle of an agent of Reform, instead of for the rôle of an Object of Attack, he cannot help shifting his mental attitude while changing his public costume.

For many years Mr. Davies had felt the need of "hazardous machinery" legislation for the factories of Illinois. For many years he had filled the archives of the Illinois legislature with literary productions in the form of proposed statutes. When the last of these, in the year 1907, had been laid away where it would gather most dust, Mr. Davies came back with a shorter but wiser effort called "Senate Joint Resolution Number 19." It passed both houses and the Governor accordingly appointed a commission consisting of three manufacturers, three labor men, a doctor, a lawyer, a citizen-at-large, and the Secretary of the State Bureau of Labor Statistics.

When a manufacturer gets appointed to be an agitator he sometimes turns out to be so wild-eyed and long-haired that, if he had met himself a year before, he would have locked himself out of his own office. Otherwise how explain the fact that the bill reported to the Illinois legislature by the hazardous-machinery commission, including the three manufacturers, was the most comprehensive ever devised in the state? It was not satisfied with providing that all dangerous machinery must be guarded, and that floors must not be overloaded, and that there must be fire-escapes, and that stairways must have hand-rails and safety-treads, and that hallways must be lighted. It went beyond these provisions for Safety and embarked on provisions for Health and Comfort. It provided that there must be seats for female employees, that workrooms must be kept at a reasonable and equable temperature, that no food must be taken into the same work-

room with poisonous substances, that certain specified quantities of fresh air must be furnished, that poisonous gases and dusts must be removed, that there must be separate water-closets for the sexes (one for every thirty males and one for every twenty-five females), that there must be adequate washing facilities and that if changes of clothing are necessary there must be separate dressing-rooms.

This was in 1909. In 1907, just twenty-four months back, a committee of Illinois manufacturers had taken a rapid survey of all human legislation in all countries and all ages and had observed that the hazardous machinery law of that year was "the most obnoxious bill ever promulgated by mankind." The members of the committee did not think they were "fit subjects to have guardians appointed to watch over and operate their business for them," and if the state insisted on assuming a guardianship of that kind they would exile themselves, abandoning their Illinois factories, "with millions of dollars invested in them," and proceeding to "localities in which manufacturing industries are encouraged."

Similarly, just twenty-four months back, in the year 1907, the chief legislative lobbyist of the Illinois Manufacturers' Association had warned his patrons that "agitation for so-called factory-inspection legislation has been started and the names of some of those who are taking the initiative are mentioned in connection with the anarchistic movements which the police of the large cities are trying to suppress." He also recollected that "the Illinois Manufacturers' Association has been the agency through which

proposed legislation of this kind has been defeated in the past." And he apprehended that "the fight will be harder at the next session of the legislature than ever before."

But it wasn't. "Senate Joint Resolution Number 19," impressing three manufacturers for service among the "anarchists" who were to draw up the bill, resulted in a re-alignment of forces and a re-location of battle-fields. There was no real battle, of the old kind, on the floor of the legislature of 1909. The real battle had already happened in the meetings of the hazardous machinery commission. There the employers and the employees had fought out their differences, man to man. When the bill went down to the legislature it had behind it the bulk of labor and the bulk of capital both.

The Governor had appointed Charles Piez, Emerit E. Baker, and P. A. Peterson, presidents of large and important manufacturing companies, to represent capital. He had appointed Edwin R. Wright, Peter W. Collins, and William Rossel, active trade unionists, to represent labor. And from the time when one of the manufacturers nominated Mr. Wright for chairman of the commission to the time when the labor members presented the manufacturers with a booklet commemorative of their efforts for the improvement of factory conditions in Illinois, the divergences of opinion among the members of the commission were continuously and effectively harmonized into unity of action.

Mr. Samuel A. Harper, the legal member of the commission; Dr. Henry B. Favill, the medical member; and Professor Graham Tay-

lor, the "citizen-at-large," represented the public and furnished the "third element" which every labor-and-capital commission should have.

It was a bright interlude in the long and dark history of the labor struggle. Perhaps its happiness cannot be often duplicated. But many valuable hints for future work can be gathered from it. The methods adopted by the commission in investigating Illinois conditions, in studying the laws of other states and of foreign countries, and in framing the bill which was presented to the legislature ought to be serviceable in retrospect. Considerable information with regard to those methods can be secured by addressing either Mr. Samuel A. Harper, 134 Monroe Street, Chicago, who acted as Secretary of the commission, or Mr. Edgar T. Davies, Chief Factory Inspector of Illinois, 188 Madison Street, Chicago, whose energy and experience permeated the work of the commission and whose office was the storehouse for the commission's facts. These facts included copious notes on foreign legislation by such scholars as Charles R. Henderson of the University of Chicago and John R. Commons of the University of Wisconsin.

While the draft of the bill was taking form, the labor members of the commission consulted with other trade union leaders and the manufacturing members consulted with other employers. Mr. Piez, besides being a member of the commission, was chairman of the Committee of the Illinois Manufacturers' Association on Factory Inspection. Nothing went into the bill which was not fully understood by both sides and which was not finally and adequately supported

by both sides. There were no surprises and no disputed points in the bill when it went to Springfield.

It passed both houses unanimously. The Chief Legislative Lobbyist of the Illinois Manufacturers' Association exhibited great self-control and restrained himself from denouncing his organization as anarchistic. So on the first day of January, 1910, there went into effect in Illinois "An Act to Provide for the Health, Safety, and Comfort of Employees in Factories, Mercantile Establishments, Mills, and Workshops."

If possible, compose your differences at home and not in the midst of the politics of the state capital.

HOW ACCIDENTS ARE PAID FOR

THE LAW OF THE KILLED AND WOUNDED *

(Reprinted from "Everybody's Magazine," the issue of September, 1908. The facts, human and statistical, must be taken as of that date.)

EDITOR'S NOTE.—On broadly human lines this article should interest every citizen. On economic lines it should interest every employer of labor. It is not intended to arraign a class, nor to array one set of our people against another. It is rather to demonstrate where a great, heart-breaking waste can be minimized to the physical and financial benefit of all. Congress and the President have failed, so far, in their efforts to safeguard the man who works, and the companies

* This article concerns itself only with accidents happening to employees while serving their employers. It does not concern itself with accidents happening to "third persons," that is, to the public. For instance, a locomotive engineer, killed in a railway accident while performing the duties of his employment, would come within the scope of this article, while a passenger killed in the same accident would not. The law of the killed passenger is different from the law of the killed engineer, and is not here discussed.

for whom men work, and, above all, the women and children who are dependent. But earnest men will continue to fight, with the certainty that when the evil and the remedy both are known, all classes will rally in support of the remedy. Mr. Hard points the way, clearly, and without prejudice.

FOR the agony of the crushed arm, for the torment of the scorched body, for the delirium of terror in the fall through endless hollow squares of steel beams down to the death-delaying construction planks of the rising skyscraper, for the thirst in the night in the hospital, for the sinking qualms of the march to the operating-table, for the perpetual ghostly consciousness of the missing limb—for these things and for the whole hideous host of things like them, following upon the half million accidents that happen to American workmen every year, there can be no compensation.

Nor can there be compensation for what follows the telling of the tale by some fellow-workman at the door of his stricken comrade's home. There can be no compensation for the stretching out of a woman's hand, in search of support, against the door's swinging edge. That gesture cannot be paid for. And payment is beyond human power for the emptiness of a father's chair while the girl that was a baby is growing up to be a young woman among young men.

When we speak of "workmen's compensation for accidents," when we say that it has become one of the most important of all public questions in every civilized country in the world, we are

confining ourselves to just one department of the subject.

For practical purposes we are obliged so to confine ourselves. We cannot translate into dollars and cents the infinite torture, physical and mental, of America's 500,000 annual industrial accidents. We cannot capitalize the anguished leap of the workman's nerves under boiling metal. We cannot set a price upon the horror in the widow's heart when she carries to burial an oblong block of cold iron.

All that is left to us, all that remains to be the object of our frustrated sense of justice, is the bare commercial value of a son to his mother, of a husband to his wife, of a father to his children. The utmost possibility still open to the captain of industry or to the statesman is to concern himself with the small financial fraction of the big flesh-and-blood, pain-racked total through which American industry is, year by year, driven onward.

Accidents must happen. In the European countries which have the best laws for the safeguarding of machinery and for the preventing of carelessness among employees, there still are accidents, hundreds of thousands of them, every year.

Society never has advanced, and, so far as we can now see, it never will advance, without blood. When our ancestors made war their principal business there was blood. And when we, their descendants, make industry our principal business, when we devote ourselves to manufacture and commerce, when we invent and operate complicated, gigantic machinery, there still is blood. We may diminish the volume of that red torrent,

but we cannot stop its flow. The accident is an inevitable incident of business.

Shall the workman who bears it in his body bear it also in his purse, or shall not at least the financial fraction of this burden be borne by the society to which his work is necessary?

INDUSTRY'S INEVITABLE ACCIDENTS

The laborer is worthy of his hire. If in the course of his labor he loses an arm, shall not the value of that arm be included in the cost of his hire? Shall he really donate that arm to us, or shall not we, refusing to live on lost arms, return to him, through the person either of his employer or of the state, the mere, but exact, commercial value of the loss he has sustained?

It is the most we can do. Do we do it?

Let us take a typical accident.

On the 18th of February, 1901, John Zolnowski, in company with a fellow-workman named Behrens, was relining a big open-hearth furnace in the plant of the Illinois Steel Company in South Chicago. The vast interior of the furnace was dark, and the men were guided to their gloomy task by the indistinct flare of a torch. Suddenly, without warning, without conscious fault on the part of the men, without conscious fault on the part of the company, a column of inflammable gas, released by some hand never yet discovered and for some purpose never yet understood, was shot into the steep-sided cavity in which the men were wielding their crowbars and hammers. Escape was impossible. The column of gas rushed at the torch and exploded into

flame. In an instant a long, thick finger of fire was playing on the bodies of the men. Behrens was at once burned to death. Zolnowski, more —or less—fortunate, was hideously disfigured and permanently disabled.

What does the law say to Zolnowski? It says to him that he is an admirable example of the Doctrine of Assumed Risk. It says to him that though he was not in any way to blame for the accident, still, neither was his employer in any way to blame for it. It says to him that the accident was unforeseen, practically unpreventable, practically inevitable. And it says to him that therefore he must bear the whole burden of it. He assumed the risk of such accidents when, because he needed food and clothing, he took a job in the steel industry in South Chicago. He has nothing coming to him.*

Most accidents are like Zolnowski's. They just happen. They are not due, legally speaking, to the carelessness of the employer. They are not due, legally speaking, to the carelessness of the employee. They just happen. And if an accident just happens, the Doctrine of Assumed Risk, which is the cardinal doctrine of the American Law of Accidents, places the whole financial burden of it on the shoulders of the employee.

It does not place that burden, the burden of inevitable agony, of inevitable sorrow, of inevitable financial loss, on the industry which cannot be operated without such happenings. The steel industry pays for its inevitable iron ore. It pays for its inevitable coke. It pays for its inevitable

* Illinois Appellate Court, vol. cxix, p. 209, February 10, 1905.

limestone. But it does not pay for its inevitable accidents. Under the Doctrine of Assumed Risk the burden of inevitable accidents is thrown upon the employee.

And the Doctrine of Assumed Risk, a marvellously comprehensive doctrine, does not stop even at this point.

RISKS ASSUMED BY WORKMEN

About ten years ago the Boston & Maine Railroad was sued by an employee named Victor Leazott. Victor Leazott had been injured in an accident due entirely to a defective brake-rod. Victor Leazott was not at all to blame. The whole blame lay on the brake-rod. The company had not inspected that brake-rod. It had not performed the obvious duties necessary in order to prevent the accident. Its negligence in that respect was admitted.

But the brake-rod was affixed to a car which did not belong to the Boston & Maine. It belonged to another company. It was a "foreign" car. And the Boston & Maine was in the habit of *never* inspecting the brake-rods on "foreign" cars. Its negligence was clear, but it was *habitual*. Leazott had overlooked that point.

When Leazott's case got to the law term of the Supreme Court of New Hampshire, his error was made clear. The Supreme Court of New Hampshire held that he had no claim against the Boston & Maine.

"An employee," said the court, "assumes the risk arising from all the ordinary dangers of his employment, and this includes the risk arising

from the negligent performance of the employer's duties, *if the employee knows of this danger.*" *

In other words, if the employer is habitually careless and if this fact is known to the employee, the burden of the accidents resulting from that carelessness must be borne by the employee. This is the Doctrine of Assumed Risk.

What remedy is open to the employee? It is one of the ideals of the law that there is no wrong without a remedy. "*Nulla injuria sine remedio.*" And what, in a case like Victor Leazott's, is the remedy of the employee? It is this: *He can insist upon a change in the accustomed method of conducting the business in which he is employed.*

This remedy was clearly outlined in a recent decision of the Supreme Judicial Court of Maine. A man named Gillin, a brakeman, had been injured because the space between a certain rail and a certain guard-rail on the railway on which he worked had not been properly "blocked" or filled up. There was a cavity left between the two rails, and because of this cavity Gillin had been injured.

The negligence of the railway was admitted. The cavity between the rail and the guard-rail was dangerous. It was a pit of death for the feet of all employees. This point was not disputed.

THE EMPLOYEE'S SOLE REMEDY

"But," said the court, "if a brakeman, under such circumstances, continues to work without *requiring* the frogs and guard-rails to be filled or

* *Atlantic Reporter*, vol. xlv, p. 1084, July 28, 1899.

blocked, he must be held to have waived the right and to have *assumed the risk* of injury from stepping into them." *

Gillin ought to have gone to the president of the railway and told him to block and fill those frogs and guard-rails. He ought to have *required* it. He ought to have insisted on it. And if the president consigned him to the world to come and meanwhile struck his name from the pay-roll, what matter? Gillin was at liberty to go out and start a bank or float a trust. If he continued to be a brakeman, he *assumed all the risks* arising from his employer's known and habitual carelessness. And if he was injured he had no claim to compensation.

CHOICE BETWEEN INJURY AND LOSS OF JOB

The Doctrine of Assumed Risk gives the employee his choice between getting injured and losing his job.

This agreeable dilemma was clearly and bluntly offered to the employee in the case of Dougherty *versus* the West Superior Iron and Steel Company in Wisconsin.

Dougherty was ordered by his foreman to leave a machine driven by hand-power and to begin working at a machine driven by steam. Dougherty was afraid. He objected. But he was threatened with discharge. In consequence of this threat, he withdrew his objection and started to work. Within two hours after changing from the machine driven by hand-power to the machine driven by steam, Dougherty saw his forearm

* *Atlantic Reporter*, vol. xliv, p. 361, June 2, 1899.

caught in a rapidly revolving spindle and he felt the bones of his forearm crack.

The Supreme Court of Wisconsin, an absolutely incorruptible court, and one of the most learned courts in America, considering this case, said:

"If an employee, of full age and ordinary intelligence, upon being required by his employer to perform duties more dangerous or complicated than those of his original hiring, undertakes the same, knowing their dangerous character, although unwillingly, from fear of losing his employment, and is injured by reason of his ignorance and inexperience, he cannot maintain an action therefor against his employer." *

I am not attacking the courts. I am not attacking their interpretation of the law of accidents. I am going further. I am attacking that law itself.

A young woman named Sarah Knisley once sued a manufacturer named Pascal P. Pratt, in the state of New York. Mr. Pratt was operating a hardware factory. Sarah Knisley was operating a punching machine in Mr. Pratt's factory.

There was a law in the state of New York requiring Mr. Pratt as a manufacturer to safeguard all cog-wheels in his factory. He had not safeguarded them. He was guilty of constant, daily violation of the law. Sarah Knisley got her hand caught in a set of unguarded cog-wheels connecting two shafts, and her whole left arm had to be amputated. She sued Mr. Pratt for damages.

* Supreme Court of Wisconsin, vol. lxxxviii, p. 341, October 2, 1894.

When the case reached the highest court of the state of New York, the judges admitted that Miss Knisley's accident was due to Mr. Pratt's violation of the law, but they pointed out to Miss Knisley that when she entered Mr. Pratt's employ she thereby assumed all the consequences of this violation. Miss Knisley did not know this at the time, but the court explained it to her. Listen to the court: *

A MIRAGE OF LIBERTY

"In order to give judgment in favor of the plaintiff (Miss Knisley) it would be necessary to hold that where the statutes impose a duty on the employer it is not possible for the employee to waive the protection of the statutes under the Common Law Doctrine of Obvious Risks. . . . There is no rule of public policy which prevents an employee from deciding, in view of the difficulties of securing other employment, that it may not be wise to accept employment subject to the Rule of Obvious Risks."

Therefore, Miss Knisley, a poor, powerless young working-woman, unable to get another job, and unwilling to starve, decided to work in danger rather than starve in safety. And, with that end in view, she absolved Mr. Pratt from his obligation to obey the laws of New York so far as any consequences to herself were concerned!

"The statute does indeed protect a certain class of employees, but it does not deprive them of their right to manage their own affairs."

In other words, Miss Knisley, driven, as the

* New York Court of Appeals, vol. cxlviii, p. 374, February 18, 1896.

court intimates, by lack of other employment into Mr. Pratt's factory and there obliged, by fear of discharge, to operate cog-wheels unlawfully left unguarded, was exercising her inalienable right to manage her own affairs and was still a free woman, *and a mangled cripple*, in spite of the statutes!

It is surprising how little gratitude people like Miss Knisley show toward the courts for such splendid vindications of their personal liberty. Miss Knisley wanted the right to work in safety. The courts gave her the right to work in danger. She wanted an oasis of practical security. The courts gave her a mirage of theoretical liberty. She was *not* grateful for the exchange.

If any employer wants to know why his employees show such scanty respect for the law, he can find a considerable part of the explanation in what the law has said, and is saying, about compensation for accidents.

Roscoe Pound, of the University of Nebraska Law School, is not a workman. He is not a trade-union leader. He is not an agitator. But he is a professor of law, an editor of a law review, and a scholar. He has studied the subject. In a recent article in the *Columbia Law Review* he painted the situation in words that deserve the consideration of every man who hopes for the perpetuation of the reign of law in this country. This is what he said:

"When Henry the Second put bounds to the jurisdiction of the church, when the barons with drawn swords declared '*nolumus leges Angliæ mutare*,' when Coke for the judges of England told James the First that he ruled *sub Deo et*

Lege, the common law side was the national and the popular side. But to-day, the popular side is not that of the individual but of society. *To-day, for the first time, the common law finds itself arrayed against the people; for the first time, instead of securing for them what they most prize, they know it chiefly as something that continually stands between them and what they desire."* *

These are the words of a cautious, conscientious man, of a man who loves the common law, of a man who wishes to see the common law revived to the needs and restored to the affections of the common people. In that same spirit this article is written.

THE DOCTRINE OF FELLOW SERVANT

The Doctrine of Assumed Risk has a kind of cousin-in-law called the Doctrine of Fellow Servant.

When a cinder-snapper enters the employ of the United States Steel Corporation, he not only assumes—under the Doctrine of Assumed Risk—all the consequences of all the gigantic, incalculable caprices of the blast furnace near which he labors, but he likewise assumes—under the Doctrine of Fellow Servant—all the consequences of all the acts of carelessness and stupidity of which his fellow workmen may be capable.

When these two doctrines combine their forces, the workman is successfully saddled on the one side with all the inevitable imperfections of average machinery and on the other side with all the inevitable imperfections of average human beings.

* *Columbia Law Review*, vol. v, p. 344.

There was once a man named Coffey who worked for the United States Steel Corporation in South Chicago. And there was also a man named Swick who worked for that same corporation in that same place.

Swick worked only during the day. Coffey worked only during the night. When Coffey came on, Swick went home.

THE DOCTRINE APPLIED

One day Swick plugged up an open-hearth furnace carelessly and imperfectly. Coffey did not know about this. He could not prevent it. He was asleep. Swick did his careless, imperfect work and went home.

That same night, December 29, 1899, in consequence of what Swick had done, there was an outburst of several tons of white-hot metal. Coffey was terribly burned, and his hearing was permanently impaired.

Now Swick was just eighteen years old. He had held his job for just one week. He and Coffey had spoken to each other just once. When, after four years, Coffey's case reached the Illinois Supreme Court, the judges decided that Coffey and Swick were fellow servants and that therefore Coffey had no legal claim for compensation for his accident.

"These men," said the court, "the safety of each of whom depended so much upon the care and diligence of the other, had ample opportunity to exercise upon each other an influence promotive of care and prudence in the matter of the performing of their work." *

* Illinois Supreme Court, vol. ccv, p. 206, October 26, 1903.

Coffey ought to have foreseen that Swick was going to plug up a furnace carelessly and he ought to have told him not to.

But now, forget for a moment the case of Coffey and look at the case of Chauncey A. Dixon.

Chauncey A. Dixon was a fireman for the Northern Pacific. On Christmas Eve, 1899, he was stoking the engine of extra freight train No. 162. On that same road, on that same night, there was another extra freight train, No. 159, traveling in the opposite direction. And finally, on that same road, on that same night, there was a telegraph operator who was fast asleep at his key.

Dixon's train boomed through the yards, and the telegraph operator, in his little office, of which Dixon may possibly have seen the outside walls, was fast asleep. Dixon, throwing coal into the grate of his engine, was not thinking of telegraph operators and was not meditating on the Doctrine of Fellow Servant. Otherwise he would have left his cab at each station and waked up every Northern Pacific employee who happened to be asleep.

Dixon did not do this. He shoveled coal. And the telegraph operator at Bonita, Montana, continued to be asleep.

Because of his being asleep, extra freight train No. 162 and extra freight train No. 159 met, head-on. Dixon had nothing at all to do with the accident. Except in one respect. He was killed.

Four and a half years later, on May 16, 1904, Dixon's case reached the United States Supreme Court. The judges of that court decided that he had no legally valid claim against the Northern

Pacific. He and the telegraph operator at Bonita were fellow servants. Dixon was killed by reason of a fault committed by a fellow servant, and therefore Dixon's family had forfeited their right to compensation.

RISKS FROM HUMAN CARELESSNESS

This case corrects any misapprehension created by the Coffey case. Under the Coffey case it might have been supposed that an employee was merely responsible for all fellow employees in immediate proximity to him. Under the Coffey case an employee could easily evade the Doctrine of Fellow Servant. All he had to do was to be careful in selecting the workmen who worked side by side with him. If any of these workmen looked as if he would some day drop a crowbar on his feet, all he had to do was to tell the boss to discharge him.

But the Dixon case, which is typical of a large number of cases, puts a new face on the matter. A fireman cannot inspect and estimate the capacity for somnolence of every telegraph operator on his railroad. It is not possible for him to interview every telegraph operator on his railroad and ask him not to kill him.

The Dixon case is the real case. The Doctrine of Fellow Servant is not based originally on the idea that an employee can select his fellow employees, which is an absurd idea. It is based really on the idea that the average carelessness of fellow employees is a part of the average risk of the trade. When a workman gets a job he assumes the average carelessness of human be-

ings just as he assumes the average imperfections of machinery.

"CONTRIBUTORY NEGLIGENCE"

One more doctrine remains to be considered. It is the Doctrine of Contributory Negligence.

This doctrine is dramatized, once for all, in the case of Smith of Seligman.

Smith, an engineer for the Atchison, Topeka & Santa Fé, started out from Seligman, Arizona, one afternoon in the year 1903, about four o'clock. He had a long run and did not pull into Winslow, Arizona, till a quarter-past seven the next morning.

Having then been on duty for more than fifteen hours, he started off to get some sleep. He was called back by the master mechanic. There was a train of oranges that had to be hauled to Pinto. Smith objected. He said he felt unable to manage an engine. The master mechanic insisted. It was an urgent case. Smith climbed back on his engine.

Smith reached Pinto at three o'clock that afternoon. At half past eight in the evening he was on his way back to Winslow. It was then that he committed his act of contributory negligence. He got into a collision. He had been on duty thirty hours and thirty minutes. He fell into a doze. He forgot just where he was. He ought to have run his train at that point off the main track on to a side track. He didn't. He forgot about it. And in the midst of his contributory negligence another train ran into him.

Smith's right hand was badly crushed, and its

subsequent use for the purposes of his trade was rendered impossible. He had made the mistake of dropping off to sleep after more than thirty hours of continuous work.

The Court of Appeals of Texas did not condone Smith's offense. The court admitted that in Arizona, where the accident happened, there was a law forbidding railway companies to work their employees more than sixteen hours at a stretch. Under that law, when a man had worked sixteen hours, he was entitled to enjoy nine hours' rest.

The Atchison, Topeka & Santa Fé had kept Smith at work for almost twice the legal length of time. The Atchison, Topeka & Santa Fé was a lawbreaker.

But Smith was a contributorily negligent and hopelessly careless person. His real character was exposed by the court.

"The allegation," said the court,* "that the laws of Arizona prohibit railway companies from working their employees for more than sixteen consecutive hours does not excuse the contributory negligence of the appellant (Smith) which arose from his working such a length of time that he was unfitted for business. *He knew his physical condition far better than the railroad company could have known it, and he cannot excuse his carelessness in falling asleep on his engine.* The petition presents a clear case of appellant (Smith) having been hurt *through his own negligence* in stopping his engine on the main line instead of taking a siding as he should have done."

* *Southwestern Reporter*, vol. lxxxvii, p. 1052, May 17, 1905.

By this time the reader may have concluded that most accidents have to be borne financially, as well as physically, by the workman. And such a conclusion would be completely justified by the facts.

Professor Charles R. Henderson, of the University of Chicago, who is a lifelong student of the subject, and who is regarded as an authority on all matters relating to accidents, says, in his unpublished book on "Industrial Insurance in America," that out of every one hundred American industrial accidents there are only from ten to fifteen that entitle the victim to compensation in the courts.

NO DAMAGES FOR NINETY PER CENT. OF ACCIDENTS

Professor Henderson's scholarly conclusion is corroborated by the practical conclusion of Mr. Harrison F. Jones, attorney for the Chicago & Eastern Illinois. Mr. Jones has handled accident cases for the Chicago & Eastern Illinois for many years. He is a man of experience. In addressing the City Club of Chicago last year he said:

"In perhaps eighty or ninety per cent. of the accidents resulting in personal injury neither the employer nor the employee is at fault. The law says there is no remedy for that class of accidents.

"In about eighty per cent. of accidents resulting in personal injury, therefore, no liability is thrown upon the employer. In another ten per cent., while the employer may be to blame, the employee cannot make his case good in court.

Perhaps in the remaining ten per cent. of accidents there is a recovery of damages."

But if the injured employee cannot recover damages except in ten cases out of a hundred, why all these claim departments? Why all these damage suits clogging the progress of the courts and impeding the execution of justice? Why all these employer's liability companies? Why all these expensive lawyers hired to defend the employer against the personal injury claims of his employees?

I will give part of the answer in a story.

There was once a man named Olste, who, like Zolnowski, worked for the Illinois Steel Company. The accident that happened to Zolnowski while relining a furnace has already been told.

Olste was more fortunate than Zolnowski. He got his arm crushed in a slide of ore from the top of a little ore mountain in the company's plant. The company, that is, the company's workmen, had allowed the top of the mountain to overhang.

The cause of the accident which happened to Olste was therefore more obvious than the cause of the accident which happened to Zolnowski, and the Illinois Supreme Court decided that it was "negligence" for an employer to allow his employees to allow a mountain of ore to overhang. And so Olste got $7,000.*

Olste probably had to give his lawyer at least $3,000 of his $7,000. But he got $7,000 from the Illinois Steel Company.

* Illinois Supreme Court, vol. ccxiv, p. 181, February 21, 1905.

THE LEGAL LOTTERY

Now neither Zolnowski nor Olste was guilty of any fault. And in each case the Illinois Steel Company was guilty of no conscious negligence. It treated both men alike. Yet in one case it paid nothing and in the other case it paid $7,000.

Here is the first reason, and the big reason, why, although few workmen recover damages in the courts, thousands of workmen begin suits in the courts. The ultimate event is doubtful.

The betting is ten to one in favor of the employer, but there are so many technicalities, there are so many quirks in the common law, there are so many catches in the constitutions of the states and of the United States, there are so many different kinds of judges and of jurors, that the lawyer for the injured workman is constantly tempted to believe that after all, with good luck, he may possibly draw a prize number in the lottery. And so he goes ahead and takes a chance and begins suit.

INEQUALITIES IN THE LAW OF ACCIDENTS

The common law is an ancient thing, but when cases like Olste's are contrasted with cases like Zolnowski's, the common law seems to be deprived of all claim to any more ancient date than that at which Mr. W. S. Gilbert wrote down the lines of the "Mikado":

> "See how the fates their gifts allot,
> 'A' is happy, 'B' is not.
> Yet 'B' is worthy, I dare say,
> Of more prosperity than 'A.'"

Mr. Gilbert, it may be incidentally noted, was a lawyer.

Under the Law of Accidents Olste is happy. Zolnowski is not. Equal in their real merits, they are worlds asunder in their technical claims.

And the Law of Accidents, year by year, encourages thousands of workmen who were injured in accidents like Zolnowski's to sue their employers in the one-to-ten hope that, after all, their accidents may possibly be decreed to have been like Olste's. They themselves cannot tell the difference, and quite frequently neither can the judges till they have read a hundred previous decisions and have taken a fortnight to think it over.

A workman is wise if, like Olste, he gets himself injured in an accident the cause of which is intelligible to judge and jurors. He is also wise if he gets himself injured in a commonwealth which happens to have local laws favorable to his particular kind of case.

A man named Dean, working for the Missouri, Kansas & Texas, was injured by the act of a foreman who dropped a tool-box on his feet. Under the laws of Texas the foreman was a superior servant. He was *not* a fellow servant. The Fellow Servant Doctrine did not apply. Dean got $3,000.*

But a man named Molkoff, working for the Chicago, Rock Island & Pacific, who was likewise injured by the act of a foreman, had a different experience. Under the laws of Oklahoma, the foreman was *not* a superior servant. He

* Texas Court of Civil Appeals, October 11, 1905.

hired Molkoff and he had the right to discharge him, but he was not a superior servant. He was a fellow servant. The Doctrine of Fellow Servant *did* apply. Molkoff got nothing.*

Dean was happy. Molkoff was not.

Ten articles could be filled with examples of local legal variations of this kind. And ten other articles could be crowded to the brim with technical points inconsistently decided, or else left totally undecided, by almost any given court in almost any given jurisdiction in the United States.

Uncertainty is bad for honest people. It is good for dishonest people. The uncertainty of the American Law of Accidents raises up a pestilential brood of unscrupulous litigants to plague American employers.

FIGHTING FRAUDULENT CLAIMS

About ten years ago the Illinois Steel Company was presented with a claim on behalf of one Nick Halic, a Croatian laborer.

Halic was alleged to have been injured by the breaking of a defective plank in the mills operated by the Illinois Steel Company in South Chicago. He wanted $25,000. And he looked as if ten times that amount would be insufficient to compensate him for what he had suffered. Bodily, he had been transformed into a monster; and, mentally, he had been cast into the first stages of idiotic helplessness.

The company, calloused by previous experiences, was not touched in any sensitive spot by

* *Pacific Reporter*, vol. lxxxii, p. 733, September 6, 1905.

the spectacle of Nick Halic. It put its whole secret service machinery immediately into motion, and the foreign settlements of Pittsburg were searched, while the post-office boxes of Anaconda, Montana, were being shadowed. No Croatian colony in the whole United States was left unexplored.

Finally, through a detective who remembered the maxim, "*Cherchez la femme*," an attractive Croatian woman who kept a boarding-house in South Chicago was induced to separate herself from a hint. Following this hint, William P. Sidley, a Chicago lawyer, crossed the Atlantic and adventured himself into the fastnesses of the Carnic Alps in the southwestern section of Austria-Hungary. There he found the real Nick Halic.

The real Nick Halic had truly been injured in the plant of the Illinois Steel Company during a temporary sojourn in America. But he had recovered. He was doing very well, thank you. In fact, he was doing *so* well that his place had been taken by an imitation Nick Halic, a congenital cripple and idiot, exported at vast expense from Austria to Illinois for the express purpose of impersonating the real Nick Halic and of defrauding the Illinois Steel Company.

The Illinois Steel Company did not give the imitation Nick Halic $25,000. It defeated his claim. But it had to spend a considerable fraction of $25,000 in order to defeat it. And every large company has experiences similar, if not equal, to the Nick Halic case every year.

But eliminate fraud. The *bona fide* cases in themselves are enough to terrify almost any em-

ployer whose resources are merely finite. Few accidents ever reach the jury. They may poke their way up into the courts, but they get nipped off before time for a verdict. They get settled or they get discouraged. But when they do reach the jury, the verdict is usually of such proportions as to strengthen the employer in his determination to fight every accident claim ever thereafter presented to him.

Jurors seem to believe that the one successful litigant in every ten accident cases is entitled to have all the money that ought to have been divided among all the ten victims. Zolnowski got nothing. Olste got $7,000.

If every man with a crushed arm got $7,000, the country would be bankrupt. There is a limit to the amount of new wealth which can be produced in the United States in any one year. And therefore there is a limit to the amount of compensation which can be granted in any one year to injured workmen.

EMPLOYERS' NEEDLESS EXPENSES

Jurors, naturally, do not grasp this fact. They simply know that most injured workmen are legally entitled to nothing, and so when they find an injured workman who is legally entitled to something, they give him all they can.

Under our present laws every damage suit brought by an injured workman is a gamble. Nine cases get nothing. The tenth gets all the money.

Now look at this from the employer's side. If he should allow every case to go to the jury,

he would be in the hands of a receiver at the end of twelve months. So he fights and equivocates and procrastinates over practically every case as it comes along. And he often spends more money in *fighting* accident claims than he does in *settling* them.

Professor Charles R. Henderson, writing in the *Chronicle* says:

"It remains to make clear to our business men that they are squandering millions of dollars annually to protect themselves against artificial risks created by an antiquated liability law, millions sufficient to protect their employees if wisely administered under sensible legislation. Here and there an employer has taken time to discover that most of the money he now spends goes to burden the courts, to embitter his employees against him, and to turn the wounded and bereaved over to humiliating and degrading charity."

LEGAL RIGHTS AND STARVATION

It cannot be too much, nor too often, emphasized that *the deep-down vice of our present system of awarding compensation for accidents is that it depends on litigation,* on the employment of lawyers, on an appeal to the courts, on the prosecution of a lawsuit.

What a gigantic mockery it all is!

When a cinder-snapper, employed by the United States Steel Corporation, loses his arm, we do not say to him: "You lost your arm in an accident. You did not try to lose your arm. The United States Steel Corporation did not try to deprive you of your arm. You just lost it. It

was an accident. Your arm is part of the cost of producing steel this year. You shall be paid for it just as you are paid for all the rest of your labor."

We do not say this. We do not admit that the accident which happened to the cinder-snapper was an inevitable feature of the manufacture of steel. We assume that, in case it has any legal bearing at all, it was a "wrong" committed by the United States Steel Corporation against the cinder-snapper.

And so we go to the bedside of the injured cinder-snapper and, with his wife asking how about to-morrow's dinner, we say to him:

"You have been injured. Your remedy is simple. Go ahead and sue the United States Steel Corporation. The Courts are open to you, just as they are open to the United States Steel Corporation. You are at perfect liberty to employ lawyers competent to meet the lawyers of the United States Steel Corporation. You are at perfect liberty to stay in the courts as long as the United States Steel Corporation stays in the courts. You may appeal from court to court till you reach the highest court, just as the United States Steel Corporation will so appeal. You are at liberty to try to starve out the United States Steel Corporation just as the United States Steel Corporation is at liberty to try to starve you out, before the two or three or four years elapse which must, in all probability, precede the final decision of the judges of the court of final resort. In every respect you are on terms of perfect legal equality with the United States Steel Corporation. Just go ahead and begin suit."

This may sound reasonable to a lawyer. It does not sound reasonable to a cinder-snapper who wants to feed his wife.

Litigation is expensive. It is uncertain. And, above all, it is tedious.

In Illinois, which is an average state, in Chicago, which is an average city, a suit takes one or two years to get through the Circuit or Superior Court, six months to get through the Appellate Court, and six months more to get through the Supreme Court. This is the most optimistic calculation possible.

What chance has a cinder-snapper in a game of this kind? He and his wife are hungry, and the law says to him that in two and a half years he may possibly find out whether anything is coming to him or not. Litigation is a rich man's game, like automobiling or yachting.

THE LAW'S DELAYS

And hundreds of cases go far beyond the optimistic time allowance I have made.

Peter Myreen, for instance, was injured in Chicago, while helping to erect a high office building, in the year 1902. Late in 1903 he got to the lowest court. Result: "New trial."

In consequence of this decision, Peter Myreen went to the foot of the docket and did not again reach the lowest court till two years later, in 1905. The result, this time, was an appeal to the Appellate Court and another decision saying: "New trial."

In consequence of this second decision Peter Myreen reached the lowest court once more in

the year 1907. Result: a disagreement of the jury. Result of that result: "New trial."

In 1909, for the fourth time, Peter Myreen, injured but uncompensated, will reach the lowest Chicago court and in 1909 will once more plead his cause.

And, after that, there will yet remain the Appellate Court and the Supreme Court of the state. There will be at least nine years between the time when Peter Myreen was injured and the time when the courts will tell him how much he was injured.

What relation exists between this kind of system and that splendid promise of our law, which, passing through many variations of phraseology, appears among other places, in the Constitution of Illinois?

"Every person," says the Constitution of Illinois, "ought to find a certain remedy in the law for all injuries and wrongs which he may receive in his person, property, or reputation. He ought to obtain, by law, right and justice. And he ought to obtain it freely and without being obliged to purchase it, completely and without denial, promptly and without delay."

We are not exactly living up to this ideal.

DEGRADING SETTLEMENTS

I would not have it supposed, however, from anything I have said, that to-day the only injured workmen who receive compensation are those who are strictly legally entitled to it. Human nature is not so base.

In thousands of cases the employer says to the

injured workman: "I don't owe you a cent. The law says I don't. But I know you weren't trying to commit suicide. You got hurt in my service. I'm sorry for you. Here's $5 or $50 or $100. Take this from me. It doesn't belong to you. But I give it to you."

In all such cases the injured workman becomes an object of charity.

In thousands of other cases the injured workman, although he knows he has no legal claim, knows also that if he begins suit it will cost the employer something to defend himself against it. He knows that the employer will have to spend $200 fighting him in the courts. So he threatens to sue. And then the employer says: "You have no legal claim. You know it and I know it. But you can make me two hundred dollars' worth of trouble in the courts. Here's $50. Take it and sign a release." The money is paid over, and the release is signed.

In all such cases the injured employee plays the rôle of a hold-up man.

Now, whether the employee cajoles his employer or intimidates him, whether he gets money from him by arousing him to a sense of sympathy or by threatening him with the expense of unscrupulous litigation, whether he becomes the recipient of charity or of swag, it is clear that he is equally humiliated and equally degraded. In either case he equally loses his self-respect.

THE IDEAL FOR COMPENSATION

There ought to be, and there can be, a system under which the injured employee will know ex-

actly how much he deserves because of his accident, and will know also that he will receive exactly that amount promptly, automatically, in the ordinary course of business administration, without an appeal to the courts, without an appeal to the employer, without becoming a pirate and without becoming a beggar.

Mr. Francis H. McLean has recently presented to the New York Conference of Charities and Correction a report on 241 accident cases coming consecutively under the observation of himself and his friends. It was an official report, laboriously compiled.

In 47 cases out of the 241 there was a certain amount of compensation, paid by the employer to the injured workman. In the other 194 cases out of the 241 there was no compensation. But what I wish to draw attention to, is not so much the absence of compensation in the 194 cases as the relative unevenness, unfairness, incongruity, and absurdity of the compensation granted in the 47 cases.

Just look at a few of the contrasts:

Spine injured	$20.00
Fingers amputated	150.00
Death	50.00
Fingers amputated	50.00
Crushed foot	50.00
Death	500.00
Death	300.00
Death	100.00
Death	Funeral expenses
Leg amputated	100.00
Brain affected	60.00
Leg amputated	157.00
Three ribs broken	20.00
Paralysis	12.00

It would be difficult to add anything to this list of impeachments of common sense, of profanities against the name of human nature.

Our present law of employer's liability deprives the employee of justice without relieving the employer of expense. It is hideously cruel from one standpoint and frightfully expensive from the other. It cannot endure. Every other important country in the world has put it away in its museum of antiquities.

Every other important country in the world has made compensation for accidents an adjunct of business in place of a department of law. In every other important country in the world the burden of the accident, whether due to the fault of the employer, the fault of the employee, or the fault of nobody, is placed on the shoulders of the industry in which it happened.

To repeat: the accident is an incident. Imperfection of machinery is inevitable. Carelessness of employer and of employee is inevitable. Both these things, both imperfection of machinery and carelessness of human beings, may be diminished by wise laws, but they cannot be eradicated. Accidents must happen. And therefore the compensation for the accident ought to be inevitable and automatic, like the accident itself.

This is the ideal President Roosevelt had in mind, when, in a recent speech, he said:

"Workmen should receive a certain definite and limited compensation for all accidents in industry, irrespective of negligence. When the employer, the agent of the public, on his own responsibility and for his own profit, in the business

of serving the public, starts in motion agencies which create risks for others, he should take all the ordinary and extraordinary risks involved, and, though, the burden will at the moment be his, it will ultimately be assumed, as it ought to be, by the general public. Only in this way can the shock of the accident be diffused, for it will be transferred from employer to consumer, for whose benefit all industries are carried on. From every standpoint the change would be a benefit. The community at large should share the burden as well as the benefits of industry. Employers would thereby gain a desirable certainty of obligation and get rid of litigation to determine it. The workman and the workman's family would be relieved from a crushing load."

The employer, as an employer, and the employee, as an employee, are not the only persons concerned in this matter. The whole public is concerned, deeply, financially, morally.

Every year the stream of industrial accidents flows on, and every year it sweeps hundreds and thousands of families away from their little perilous stations of self-respecting independence down the irresistible current first to poverty and then to charity.

Accidents are no more closely related to the surgery of the doctor than they are to that social surgery which is performed by charity societies and which, though it lets no blood, leaves forever a scar on the mind.

The Chicago Relief and Aid Society made last year a special study of one thousand families consecutively abandoning their family integrity, consecutively breaking through those barriers

which should be imperishable and appealing to the outside world for help.

In one hundred and nine of these one thousand cases the destitution of the family was found to have arisen, in whole or in part, from some kind of industrial accident.

There is too much assumption of risk here. The workman assumes the risk of death, the widow assumes the risk of pauperism, the charity worker assumes the risk of paying the rent.

There ought to be a little resumption of risk by the people who use the workman's labor instead of so much assumption of it by others.

Why shouldn't every industry carry the burden of its own killed and wounded? Why shouldn't compensation for disability be just as much a part of the cost of business as it is of the cost of war? Why shouldn't the workman who goes into his daily fight with modern machinery be assured that his injury will be regarded as an honorable wound, entitling him to decent consideration? Why shouldn't the industrial soldier, meeting his death in forms as terrible as those of any battle-field, die knowing that he will leave, if not glory, at least a few years' food to his family?

Why shouldn't society, having invented machines which make business one long war, treat the enlisted men at least like enlisted men and, if they are incapacitated, assign them temporarily or permanently, to the rank and pay of pensioners of peace?

WHAT TO READ ABOUT EMPLOYERS' LIABILITY

1. Bulletin Number 74 of the United States Bureau of Labor, January, 1908.
   Employers' Liability in the United States—Lindley D. Clark.
   A Treatise and a Compilation of Laws.
   (Write your Congressman.)
2. Publication Number 1 of the New York Branch of the Association for Labor Legislation.
   Employers' Liability—Crystal Eastman.
   A Criticism Based on Facts Secured in the Course of the Accident Investigation Made by the Pittsburgh Survey, an Investigation which was the most Comprehensive and Accurate so far Made in America. Its Results will soon be Available in Book Form.
   (Write to Secretary, New York Branch, American Association for Labor Legislation, 105 E. 22d Street, New York. For the book, write to the Editor of "The Survey," at the same address.)

HOW ACCIDENTS OUGHT TO BE PAID FOR

PENSIONERS OF PEACE

(Reprinted from "Everybody's Magazine," the issue of October, 1908. The facts, human and statistical, are to be taken as of that date.)

EDITOR'S NOTE.—During 1906, *in the state of Illinois alone, a hundred men were killed or maimed by one little device called a "set-screw." An investment of thirty-five cents each, or a total of thirty-five dollars, would have saved those men. In Germany, under the Compulsory Insurance system, the widows and orphans would have been pensioned, the injured nursed and cared for. In America, under a species of Employers' Liability, they were fought through the courts like criminals. Germany pays its injured, superannuated, and their dependents something like* 126 *million dollars a year. Of this sum the workmen furnish one half. American manufacturers spend about as much as this total out of their own pockets, but only thirty per cent. of it ever reaches the hands of the injured. On the one hand, the remedy for sightless eyes and maimed bodies and helpless widows and*

hungry children is long, expensive litigation. On the other, it is prompt and continuous medical service, and a regular weekly income. Which is the better victory for human beings made in the image of God? When shall we make each trade add the cost of its burned-out eye-sockets to the cost of its burned-out coal grates? Read what Mr. Hard has to say, and then decide whether you are not about ready to enlist your services toward making this country a happier and a better place to live in.

A CURIOUS thing happened in Germany in the year 1900. In that year the German Chemical Industry Association offered a prize, in free public competition, for the following interesting object:

THE SAFEST SOAP-PRESS

It wasn't for the soap-press that would make the most soap. It was for the soap-press that would save the most limbs and the most lives. Real money was offered to inventors for designing a thing of that kind.

It was as if Joseph Leiter, of Chicago, instead of allowing all the safety regulations of the state of Illinois to be violated in his big coal-mine down at Ziegler in Franklin County, thereby producing an explosion of gases that killed some fifty of his workmen on the third day of April, 1905, should have obeyed all those regulations to the letter and should then have gone farther and inserted in a Chicago newspaper the following advertisement:

WANTED—A PERFECT SYSTEM OF DRIVING GASES OUT OF mines. The state regulations are not enough for me. I want something better. $2500. J. Leiter.

Herr L. Hertel, of Bayreuth, royal inspector of factories, won the prize for the safest soap-press. Hundreds of Germans have won similar prizes in similar contests. The Elbe Navigation Association, for instance, has given a prize for the safest ship-winch. The union of all the German Trade Associations has given a prize for the best protective arrangement to go over the eyes of workmen who are exposed to flying chips and sparks. The German railways have given all kinds of prizes for all kinds of safety-devices.

Mr. Edgar T. Davies, Factory Inspector of Illinois (and one of the most practical and shortest-haired reformers in the country) says that in the year 1906 in the factories of Illinois a hundred men were killed, or crippled for life, by one little shop institution called the set-screw. The set-screw stands up from the surface of rapidly revolving shafts and, as it turns, catches dangerously at hands and clothes. It is no unchangeable provision of nature. For thirty-five cents, says Mr. Davies, this danger-device could be recast into a safety-device. For thirty-five cents the projecting top of the set-screw could be sunk flush with the rest of the whirling surface of the shaft, and then no sleeve could be entangled by it, no human body could be swung and thrown by it, no woman could be widowed by it.

What remote consequences of tears and lonely years may lie in a quarter and a dime! And what satire! More than once it must have happened that a widow has had her rent paid by a

charity society to which yellow-backed bills are contributed by a manufacturer who could have kept her from being a widow by the expenditure of a quarter and a dime!

But why is it that German business men will offer prize-money for safety-devices, while American business men so generally fail to adopt them even when they have already been invented, even when they are well known and cheap, even when they are required by law?

The difference is not in personal character. If it were, it would be the Americans that would be buying the safety-devices. The individual American is the kindliest man living. He can't even keep his children out of the jam-closet (though he knows it's bad in the long run for their teeth), because the immediate sight of unhappiness makes him uncomfortable. He is soft-hearted to a fault with his family and his friends. Personally, individually, the American is charitable and humane beyond the charity and humanity of the inhabitants of any other country in the world. The fact that the particular country he owns and operates is the world's industrial slaughter house is a paradox in international character.

And the heart of this paradox is in the law on the subject of Compensation for Accidents to Workmen.

The Germans have a law that makes them better than they naturally would be. We have a law that conceals the real, hideous nature and the real, appalling cast of industrial accidents from our eyes, and makes us blindly and artificially selfish and cruel and brutal.

Germany has a system of compulsory insur-

ance to which both employers and employees contribute. Every injured German workman, no matter how he was injured, whether by his own fault, by the fault of his employer, or by nobody's fault, draws a regular weekly compensation either from the sickness-insurance fund or from the accident-insurance fund until he is able to go back to work again.

Whereupon the following profound reflection occurs to the Germans:

"The more accidents there are, the more injured workmen we shall have to support and the larger will be the premiums that we shall have to pay into our insurance funds. But the fewer accidents there are, the fewer injured workmen we shall have to support and the smaller our insurance premiums will be."

This thrifty consideration leads the Germans to address their workmen as follows:

"Here are safety-devices. We implore you to use them. We shall esteem it a favor if you will try not to get hurt. But if an accident *does* happen and you *do* get hurt, here are the best doctors and the best hospitals in the empire. Use them and get well as soon as you can. We sha'n't let you crawl away to your home and get good and sick, and good and poor, and then send a claim-agent to the side of your bed and offer you a month's rent, just about the time the landlord is coming round, and get you to sign your name to a release. We aren't interested in seeing your signature on a piece of paper. We are interested in restoring you to health. The sooner you are well, the sooner you can go back to work. And the sooner you can go back to work, the

sooner we can stop paying you your weekly indemnity."

In pursuance of this wise thought, the employers and the employees of Germany, united in their insurance associations for the common welfare of both wage-earners and dividend-drawers, have spent $120,000,000 in the past twenty years on workmen's dwellings, workmen's baths, workmen's hospitals, workmen's sanatoriums, and workmen's convalescent homes. It was good business. It helped to decrease the insurance premiums. It was good Christianity. It helped to make sick people well.

A good law is a law that gets men and women into the habit of doing the helpful thing, the noble thing, the right thing. Nine tenths of every one of us is habit. The German Compulsory Insurance Law is a good law, not only because it hands out coin and medical supplies at convenient times to injured workmen, but because it sets the face of the whole German nation habitually toward preventing the crippling and mangling of human beings, toward healing the wounds of those who, in spite of all precautions, have been overtaken by the bloody misfortunes of peace, toward lessening pain, toward spreading happiness.

The difference between the German situation and the American situation is the whole difference between that modern, scientific, peace-making device called "Compulsory Insurance," and that mediæval, unscientific, strife-breeding contrivance called "Employers' Liability."

Under Compulsory Insurance the remedy for an accident is to get the victim on his feet again

as soon as possible, and to think up the best way of preventing all accidents of that particular kind in the future. Under Employer's Liability the remedy for an accident is to start a lawsuit.

The weapons of Compulsory Insurance are safety-devices and convalescent homes. The weapons of Employer's Liability are lawyers; judges; instructions to the jury; what-did-Blackstone-say? doctrine of contributory negligence; 17 south-by-east reporter 845; the - Supreme - Court - hasn't - spoken - on - that - point - and - probably - it - won't - speak - for - a - couple - of - years - yet; doctrine of fellow servant; error- in - allowing - the - doctor - to - say - how - much - the - man - said - his - head - hurt - him; *volenti non fit injuria;* I except; fifth amendment; appeal.

On the eleventh day of July, in the year 1890, the steamship *Tioga* made port at Chicago and came up the Chicago River as far as its dock at the foot of Randolph Street. It carried 320 barrels of benzine, naphtha, and gasoline in its fantail hold. On top of these barrels it had a lot of bales of cotton-waste. And just near the combing of one of the hatches, leading down into the hold, it had two lamps. There was an explosion, and twenty-five workmen were killed. That was in 1890.

Last year, in 1907, seventeen years afterward, Wirt E. Humphrey, commissioner for the federal courts in Chicago, handed in a preliminary report on the subject of the *Tioga* accident. Together with his report, he transmitted to the judges eleven volumes of testimony, six of which had been contributed by witnesses for the dependents

of the dead men, and five by witnesses for the steamboat company.

THE IRONY OF THE LAW'S DELAYS

The verdict in the lowest federal court has not yet been given. After that there will be an appeal to the Circuit Court of Appeals. And after that there will be an appeal to the Supreme Court of the United States.

How have all these years been spent? Not in relieving the distress of the human beings who were impoverished by the accident, but in trying to find out just where the technical legal blame lay for the accident itself. Not in helping the widows and orphans, but in laboriously endeavoring to fix the personal responsibility for the character of the cargo and the location of the lamps.

The years when compensation was really needed have now passed. The widows who were forced to beg, they have begged. The children who failed to get an education, they have failed to be educated. The wrong of the case has been done. The human misery of the case has been endured. Everything is all over. Except in the courts. Everything connected with the case is finished. Except the case itself. The only thing that survives is that thin legal emanation from the dead body of a human problem long since resolved into its elements. The ghost of the *Tioga* affair still goes soft-footing along the corridors of the Federal Building, but the *Tioga* affair itself breathed its last warm, human breath many years ago.

A VISION OF WORKMEN'S INSURANCE IN CHICAGO

Let us now see what Compulsory Insurance would have done with the same set of facts. Let us translate the whole tremendous social vision called "Workingmen's Insurance," first seen by German economists like Winkelblech and Schaeffle, afterward obeyed and written into law by German statesmen like Emperor William I and Prince Bismarck, and now rising in light over every European country of any importance; let us take that bold, sweeping conception, in which the misfortunes of men in their millions are averaged to form a composite social policy, and translate it into the every-day details of the little life-drama of some individual workman who happened to be rolling a barrel on the decks of the *Tioga* on July 11, 1890.

We will suppose his name was Smith. And we will suppose he wasn't instantly killed. He was only frightfully burned, especially about the eyes. They weren't so much afraid at first that he would die as they were that he would go blind.

The question is: What happened to Smith under a system of Compulsory Insurance like the system they have in Germany?

The first thing that happened was that Smith was at once removed to a hospital by the officers of his local sick-club. Smith belonged to a club of that kind. He had to belong to one. It was the law.

His club was called "The Chicago River Sickness Benefit Association." All the men who worked on boats or on docks along the Chicago

River belonged to it. And all the employers of those men belonged to it, too. The men paid two thirds of the expenses of the club. The employers paid the other third. The total amount of those expenses depended on how many cases of disease and accident happened along the Chicago River.

Smith lay in the hospital a day, and then the doctors decided that they could cure him just as well at home. So they sent him home and put him to bed there, and came every day and treated his eyes. These doctors were paid by the Chicago River Sickness Benefit Association.

On the morning of the fourth day, Smith began to get not only medical attention, but a regular money compensation. It was called his sick-pay. It amounted to just one half his regular wages. It was paid by the Chicago River Sickness Benefit Association.

Smith began to be glad that a cruel and oppressive government had forced him to pay weekly premiums to a sick-club.

For four weeks Smith lay on his bed and writhed with the pain in his eyes, and his wife took his half-pay and fed him and the children. It wasn't very sumptuous eating. Not much porter-house. Mostly potatoes. But it was their own.

WHAT A SICK-CLUB DOES

They didn't have to slink into the office of the county poor agent. They didn't have to take the price of a week's food for hungry stomachs from the claim agent of the owners of the *Tioga* and

sign a waiver of all legal claims and say: "Thank you. The courts might give us $200 in a year or in five years or in a decade or two, but we need $5 now." They didn't have to live on advances from some ambulance-chasing lawyer who had taken up their case against the *Tioga* company as a speculative investment in legal futures. They didn't have to send in their name to the editor of a yellow journal in order to be able to eat on Thanksgiving. They didn't have to become Case Number 11,896 in the records of the bureau of charities. What they had was little. But it was coming to them rightfully, legally, honorably. It saved them from the unforgettable humiliation, the ineradicable degradation, of benevolence.

If Smith had been suffering with rheumatism, or pneumonia, or appendicitis, he would have got his doctors and his sick-pay just the same. In fact, the sick-clubs, as their name implies, exist mainly for the purpose of relieving the distress caused by disease. It is only incidentally that they relieve the distress caused by accidents. They take care of accident cases for only thirteen weeks at the most.

The sick-clubs, therefore, are only a temporary feature in the German scheme of dealing with accidents. But diseases are just as much a part of every-day industrial life as accidents. And the sick-clubs of Germany are worthy, accordingly, of a little paragraph of their own in any article devoted to the pensioners of peace.

Here is that little paragraph:

In Germany in the year 1904 (the last year for which full, accurate figures are available) there

were 22,192 sick-clubs. They had nearly 12,000,000 members. And they provided medical care and money compensation for more than 100,000,000 days of sickness! In one year!

What a saving of human misery lies in those figures! And more than that. What a saving of human self-respect!

But let us go back to Smith, who is still lying on his back, with his eyes horribly hurting him. He can't even open them. And by this time his wife is crying because she thinks Smith will never see again. *There* is something no human device can ever cure. For ever and ever workmen will be blinded by the accidents of modern industry, and for ever and ever women will cry for those sightless eyes. We can't stop their crying. But we *can* prevent them from being hungry and from begging. And some day we shall do it just as effectively in Pittsburgh and in St. Louis as in Hamburg and in Berlin.

WHERE THE EMPLOYER COMES IN

Along toward the end of Smith's fourth week in bed he had a visitor. It was the local agent of "The Great Lakes Marine Accident Insurance Association." This association included all the owners of all the boats plying on lakes Ontario, Erie, Huron, Superior, and Michigan. It included, therefore, the owners of the *Tioga.*

No workman belonged to the Great Lakes Marine Accident Insurance Association. Only employers. It was entirely an employers' organization. The employers paid all the premiums and elected all the directors.

The local agent sat down at Smith's bedside and addressed him as follows:

"You look pretty bad to me. These doctors that have been coming to you from the Chicago River Sickness Benefit Association don't seem to be helping your eyes much. Can't see a bit, can you? Well, it's up to them by law to take care of you for thirteen weeks. But I guess we'll have to step in right now and take you off their hands. We can't afford to let you go blind. If you lose your eyes, we'll have to pay you a pension all the rest of your life. I guess it's you to our hospital."

So spoke the agent, after the brutal manner of his kind. And the next morning the ambulance came and took Smith to a big hospital on the West Side.

THE COMPULSORY INSURANCE IDEA

This hospital had been built by a kind of Union of Employers' Accident Insurance Associations. "The Western Building Contractors' Accident Insurance Association" was in it. And "The Great Lakes Marine Accident Insurance Association." And "The Illinois Manufacturers' Accident Insurance Association." And a lot of others.

These associations were not run from Washington by the Government. They were run by their own members. The idea that the German insurance associations are managed by bureaucrats sitting in heavily upholstered and red-tape-embroidered offices in Berlin is completely wrong. All that the government does under the German

system is this (and here is the gist of the whole Compulsory Insurance idea):

The government takes each industry and each trade in the empire and says to the people who own it:

"You must form an accident-insurance association which will include all the employers in your industry and in your trade. And you must pay compensation to all your injured workmen according to a fixed scale. We won't stop to try to divide the blame for accidents between you and your workmen. We will assume for practical purposes that you weren't trying to commit murder and that they weren't trying to commit suicide. We will assume that accidents are accidents. And we will make each trade bear the burden of its own accidents. We will make each trade add the cost of its burned-out eye-sockets to the cost of its burned-out coal grates in computing the market-price of its product. So you *must* form your accident-insurance association in your industry and in your trade, and you *must* pay your injured workmen the compensation fixed by law. But that's where we stop. Everything else rests with you. Go ahead and elect your own officers and fix your own details to suit yourselves. Invent your own safety-devices. Adopt your own shop rules. Employ your own factory inspectors. Engage your own doctors. Build your own hospitals. Do all, or none, of these things, as you please. Profit by your own wisdom and your own humanity in preventing accidents and in curing their consequences. Lose money by your own inefficiency and your own cruelty in letting accidents happen and in neglecting injured work-

men. All that we insist upon is that your trade shall carry its own load of the wounded and the slain. This is not bureaucracy. This is not paternalism. It is trade responsibility. It is trade self-government."

But what about Smith's wife while Smith lay in a dark room in the hospital? Well, Smith didn't need to worry about her. She wasn't as well off, of course, as if he had been at home and at work. But she was at least three fifths as well off. She was drawing, every week, sixty per cent. of the wages Smith used to earn on the *Tioga*. This weekly compensation was paid to her by the Great Lakes Marine Accident Insurance Association. It was enough to keep Smith's home intact till Smith could get back to it.

Meanwhile the officers of the Great Lakes Marine Accident Insurance Association had been looking into the *Tioga* accident. And the more they looked, the more irritated they became. Bales of cotton-waste on top of barrels of gasoline! Amazing! Frightful! A clear violation of the by-laws of the association! And now, in consequence, here were all these workmen, including Smith, who had to be compensated.

So the Great Lakes Marine Accident Insurance Association tried the owners of the *Tioga* and fined them one thousand dollars, and said: "We earnestly regret that the law doesn't allow us to fine you any more."

PRIVATE FACTORY INSPECTORS

And two lamps standing near the combing of the hatch leading down into the hold! Some-

body must have put those lamps there. Who was he? The officers of the Great Lakes Association had become so peevish about it by this time that they had their inspector spend a whole week in finding out who that man was. And, fortunately, when they found him, he was a man who had left the boat to go on the dock for a minute or two, just before the explosion occurred, and so he wasn't dead or in the hospital. He was perfectly eligible to be fined, and they fined him a month's pay.

Disciplinary measures of this kind are granted by the German law to the trade insurance associations. Each insurance association may make rules and regulations to govern its members and it may discipline its members, or its members' employees, for disobeying those rules and regulations.

That is to say, under Compulsory Insurance the government makes private individuals do much of its work for it. Which is just the reverse of paternalism.

In the year 1904, the German trade insurance associations, in order to make their rules and regulations effective, employed 217 factory inspectors. These private factory inspectors did virtually the same kind of work that is normally done by public factory inspectors. They went about from place to place, within their trades, and saw to it that all possible safety-devices were adopted, and that all possible safety regulations were observed. And their salaries were paid out of the insurance funds of private employers.

Think of that! Private factory inspectors! It doesn't sound much like paternalism, does it?

It sounds a good deal like personal responsibility and private initiative.

FUNERAL EXPENSES AND PENSION

After six weeks in the West Side hospital Smith died. His death surprised the doctors, because his eyes were getting better; but his constitution had been eaten away by hot days and damp nights on the Chicago River, and he had no vitality. The long confinement and the agony of his burns finished him.

His funeral expenses, amounting by law to twenty times his daily wages, were paid by the Great Lakes Marine Accident Insurance Association. And that association also began immediately to pay a pension every week to Smith's family. It was sixty per cent. of the wages Smith used to earn, and it was due to keep on coming as long as the widow didn't marry somebody else, and as long as the children were too young to earn their own living.

The Smith family was part of the Great Lakes carrying trade, and its misfortunes, so far as they were caused by the trade, had to be borne, at the least to the extent of sixty per cent., by the trade itself. Not by the bureau of charities; not by the tax-payers; not by Smith's six-months-old baby. But by the trade.

Is there some sense in that idea?

LEGAL VS. MEDICAL TRIUMPH

But we will suppose Smith didn't die. He simply lost both his eyes. In that case the situa-

tion, at first, was worse than if he had been carried to the graveyard. Smith, being blind, couldn't earn a living any more than if he were dead, and yet he had to wear clothes and eat food. So, as long as he remained completely helpless and as long as he needed special care, the Great Lakes Marine Accident Insurance Association had to pay him full wages.

Perhaps after a while, however, Smith, though he was blind, was able to weave baskets. Then his pension was decreased in proportion to his earnings.

Again, perhaps Smith neither died nor lost his eyes. Perhaps he came through all right. Perhaps the specialist in that West Side hospital cured him. Perhaps his wife came to the hospital and he saw her for the first time in three months, and they both laughed, although they were both pretty thin and pale; and they went home together and Smith started back to work. What then?

Why, then the Great Lakes Marine Accident Insurance Association was quit of the troubles of the Smith family, not because it had got Smith to scratch his name on a release, not because it had hired a better lawyer than Smith could hire, not because it had proved Smith guilty of being a fellow servant of the man who had misplaced the lamps, not because it had appealed the case from court to court till Smith could hold out no longer, not because it had defeated Smith in a legal battle, but because it had made Smith well in a medical triumph.

Which was the better victory for human beings made in the image of God?

GERMANY AS AN OBJECT-LESSON

And now for a few paragraphs of statistics! —An honorable writer always gives fair warning on such an occasion. But these statistics won't be hard to read, anyway. They are about people. And, besides, they deal with a subject that is bound to become a pressing public question in this country within the next few years.

"It is a reproach to us as a nation," said President Roosevelt in a message to Congress, "that in both state and federal legislation we have afforded less protection to both public and private employees than any other industrial country in the world."

A situation of that kind cannot long be permitted to continue. It is not only a reproach, but it is also a source of internal social discontent and danger. And when we come to legislate about it, the country that will give us the best lessons will be Germany.

In Germany, in the year 1904, there were 114 employers' trade accident-insurance associations built along much the same lines as the association we have imagined existing among the owners of the carrying trade on our Great Lakes. The members of these German employers' trade accident-insurance associations, in the year 1904, employed some 17,500,000 workmen. In other words, 17,500,000 German workmen, in the year in question, were protected (to the extent outlined above in Smith's case) against the consequences of industrial accidents.

Compensation was awarded, in the year 1904,

to some 150,000 employees who had been injured in the course of the year.

Compensation was also awarded to some 600,000 employees who had been injured in previous years, and who still remained totally or partially incapacitated.

And, finally, compensation was awarded to some 65,000 widows and to some 100,000 children of dead accident victims.

All this cost money, although, of course, in multitudes of cases the accident was so slight and the resulting incapacitation so trifling that the compensation awarded was almost nominal. However, the total amount of compensation, in the year 1904, reached $30,500,000.

INVALIDITY-INSURANCE

So much for accident-insurance. Now to go back for a minute to sickness-insurance.

In 1904 the German sick-clubs (the nature of which has already been illustrated by our imaginary "Chicago River Sickness Benefit Association") awarded compensation to the extent of just about $60,250,000.

But the Germans have a third form of Compulsory Insurance, which has not yet been mentioned. It is called invalidity-insurance. It provides small pensions (very small) for workmen who have become permanent invalids through sickness, and for workmen who have reached the age of seventy. The employers pay half the premiums of the invalidity-insurance funds, and the employees pay the other half. And the imperial government adds a small bonus. The amount of

compensation awarded by the invalidity-clubs in 1904 was, approximately, $35,500,000.

The total cost of accident-insurance, sickness-insurance, and invalidity-insurance to the German empire in the year 1904 was, in round numbers, $126,250,000.

Half of this cost, roughly speaking, fell on the employers of Germany and the other half fell on the workmen. The proportion of expense assigned to employers and workmen, respectively, varied from one kind of insurance to another, but when all three kinds were added together and averaged, the burden was just about equally divided.

THE COST TO A GERMAN EMPLOYER

Let us now see how the triple insurance idea works out in the case of some particular firm. Let us take the big Krupp Company at Essen. This famous industrial enterprise handles the heaviest and most disastrous kind of iron-and-steel work. Its insurance premiums might be expected to be quite high. And they are. From 1885 to 1902, inclusive, the insurance premiums paid by the Krupp Company amounted to more than $2,000,000.

It was an enormous sum. But it was an enormous company. The real test is to take the amount paid in any one year and compare it with the total pay-roll of that same year.

Applying this test to the Krupp Company, it will be found that in the year 1902 the total insurance premiums paid by the Krupp Company amounted to just 2.7 per cent. of the total wages paid by the Krupp Company to its employees.

In other words, if a Krupp workman was earning ten dollars a week, the Krupp Company had to pay twenty-seven cents every week in insurance premiums for him, and he had to pay, roughly speaking, twenty-seven cents for himself.

A charge of that kind is not likely to ruin the industries of a nation nor to drive its workmen to armed and desperate revolt.

And that twenty-seven cents weekly on every ten dollars of wages included all three kinds of insurance. It paid for sickness, accidents, and invalidity. If the calculation be restricted to accidents alone, a precise estimate, with present figures, cannot be furnished, because, as has already been explained, accidents are paid for out of both the sickness funds and the accident funds, and their true cost is difficult to disentangle.

By no stretch of liberality, however, could it be computed that in the year 1902 the Krupp Company paid as much as two per cent. on total wages for the accident victims who were compensated out of the sickness funds and the accident funds to which the Krupp Company contributed.

THE COST TO AMERICAN EMPLOYERS

But let it go at two per cent. That means two dollars on every hundred dollars of wages for accidents alone out of the funds of the company. Was it a large charge or a small one? Well, call it large. No employer likes to add two per cent. to his pay-roll.

It should be remembered, however, that if Compulsory Insurance costs money, Employers' Liability costs money, too.

Just look at the records of the American Employers' Liability companies! They insure employers against having to pay damages to injured workmen under our American Employers' Liability laws. The employers pay premiums to the liability companies. The liability companies then defend the suits and satisfy the verdicts. The employers themselves are saved unharmed.

Many employers are too big to need to insure themselves in this way. The railroads and most of the "trusts" can look after themselves. They would not be financially crippled by even the biggest kind of accident, involving hundreds of workmen.

Many other employers are too small to be sued successfully. Or else they are engaged in light work that doesn't cause accidents. Or else they are too stupid to see that they need insurance.

But from the remainder, in the year 1906, the Employers' Liability companies of America collected almost $20,000,000 in premiums.

That was not a negligible sum of money.

And the rates charged the individual employers were not negligible, either.

A well-known Chicago manufacturer, in response to an inquiry from *Everybody's Magazine,* gives his rates as follows:

For men employed in his machine-shop: 57 cents on every $100 of wages.

For millwrights engaged in outside work: $1.25 on every $100 of wages.

For teamsters: $2.40 on every $100 of wages.

Just observe that last rate. For teamsters, driving horses on the streets, 2.4 per cent. of their total wages! Every time that manufacturer paid a teamster ten dollars he had to pay his liability company twenty-four cents!

And that didn't include sickness. It didn't include invalidity. It was just for accidents.

Nor was that manufacturer engaged in a particularly hazardous line of business. If you want to see what the really hazardous businesses cost, just get the official "Manual of Liability Insurance." In that interesting book you will find the official rates, and if you knock off 33⅓ per cent. (which is the discount allowed in many states), you will be left with the following charges:

For men employed in building street-railways: $3.00 on every $100 of wages.

For men employed in quarries: $3.60 on every $100 of wages.

For men employed in cellar-excavation: $4.00 on every $100 of wages.

For men employed in steel-work on high buildings: $9.00 on every $100 of wages.

These four illustrations will be enough. The rest can be found in the book, and they are worth reading as a highly emotional picture, done in statistics, of the relative danger of modern occupations.

Nine dollars on every $100 of wages! It is a terrific charge. And yet the industry isn't ruined. The high buildings keep on going up. And they would keep on going up just the same if the money were spent in compensating the in-

jured workmen instead of in trying to prevent them from securing compensation.

EVERY ACCIDENT A LEGAL BATTLE

For why does Employers' Liability cost so much? There are many reasons, but the main one is that we make every accident a legal fight.

In the eleven years from 1894 to 1905, inclusive, the Employers' Liability companies of America took in $99,959,076 in premiums from American employers.

How much did they pay out in compensation to injured workmen?

Just $43,599,498.

Just 43.6 per cent. of what they took in.

And they didn't make excessive profits, at that. Their business is highly competitive. The money was spent in getting the business and in fighting pitched legal battles against the injured workmen's lawyers.

The injured workmen's lawyers! Don't forget them. They have to be paid. Sometimes they get ten per cent. of the proceeds. Sometimes they get twenty-five per cent. Sometimes fifty per cent. Sometimes seventy-five per cent. If, on the average, they leave the injured workman two thirds of the final verdict, they are leaving him more than most practical students of the subject think they are.

And *they* aren't making excessive profits, either. They have to fight long fights to get those verdicts.

Nobody is personally to blame. They are all creatures of the system. But the sad fact remains

that out of almost $100,000,000 paid by the employers of America to protect themselves against the consequences of accidents in the eleven years from 1894 to 1905, not more than $30,000,000, after the injured workmen had paid their lawyers, reached the pockets of the injured workmen themselves.

Seventy per cent. for expenses! Thirty per cent. for compensation!

It would take an ingenious man to devise a more wasteful system.

UNITED STATES BEHIND EUROPE

Compare it with the cost of administering the German system. Mr. Frank A. Vanderlip, the New York banker, after studying Compulsory Insurance as practiced in Germany, says that the expenses of administration over there amount to less than ten per cent. The German system of Compulsory Insurance spends ten per cent. on expenses and ninety per cent. on compensation! It gets ninety out of every hundred dollars spent in insurance premiums right to the place where it is needed. We are lucky if out of every hundred dollars we spend in liability premiums we get thirty dollars to the men who endured the accidents in their flesh and bone.

The substitution of the idea of insurance for the idea of liability, of the idea of co-operation for the idea of litigation, has been most completely effected in Germany. But it has been at least partially effected in many countries.

Austria, Italy, Spain, France, Belgium, Holland, Denmark, Norway, Sweden, Finland, all

have insurance systems, some of them compulsory, others voluntary, full-grown and well-developed in some cases, in other cases merely embryonic, but always and everywhere officially recognized and earnestly encouraged by the national law.

The idea of Employers' Liability is a dying idea in Europe. In some countries its obsequies have already been performed, and in all the others the pains of dissolution have begun.

AND OUTDISTANCED BY ENGLAND

In Great Britain the situation is somewhat different. The English haven't taken up Compulsory Insurance. Their method is what they call Compulsory Compensation. And their experience is particularly interesting because of the general similarity between their legal institutions and ours.

They used to have the same kind of Employers' Liability that we have now. In fact, they invented it. We simply imported it. There is nothing dazzlingly original, there is nothing endearingly native, about our present system. An American who suggests changing it is not guilty of an unpatriotic preference for foreign institutions. It was the English who thought up the doctrines of assumed risk, contributory negligence, fellow servant, and all the rest of it. What we have now is simply a legal fashion that they originated and that they thought was very beautiful until 1897, when they put it up on the top shelf back because it was *passé,* and something more modern in effect was needed.

It was in 1897 that the first British Workmen's Compensation act was passed. This act (subsequently confirmed and expanded by the acts of 1900 and of 1906) established a principle that at first sight seems to be harder on the employer than the Compulsory Insurance system of Germany.

The German sick-clubs, it will be remembered, are obliged to take care of accident victims for a period varying from four to thirteen weeks. Now, these sick-clubs, since two thirds of their expenses are borne by the workmen themselves, act as a kind of temporary cushion between the employer and the ultimate cost of the accident. Two thirds of the cost of each accident, for from four to thirteen weeks after it happens, is borne by organizations to which the employer contributes only one third of the premiums.

In England, the law does not save the employer to this extent. It requires no contributions of any kind on the part of the workmen. It makes the employer pay the whole bill. It gives him, at most, a week of grace. If an accident results in an incapacitation of less than a week there is no compensation to be granted; but as soon as the second week begins, compensation must begin, too, and if the incapacitation lasts for two weeks or more, then the compensation becomes retroactive and must be paid for the first week as well.

The scale of compensation is that as long as a workman is kept away from work by the consequences of an accident, he shall get half-pay, and if he dies his dependents shall get a sum amounting to three times his annual earnings.

And compensation must be paid no matter how the accident was caused. All accidents must be paid for. And they must be paid for by the individual employer himself. He is personally responsible for all accidents that happen to his men. This hideous assault on property was accomplished in the Parliament of 1897 by a trio of political adventurers, consisting of that unbridled visionary, Joseph Chamberlain, that ruthless revolutionist, Arthur Balfour, and that red-handed proletarian, the Marquess of Salisbury.

Mr. Chamberlain was the author of the bill. He spoke of the legal situation then existing (namely, the same situation that now exists in the United States), and called it a "great scandal."

Mr. Balfour observed that in his opinion the only way to "diffuse the shock" of accidents, which fell with crushing weight on the poorest and weakest part of the community, was to put it bodily on the employer and let him add it to the cost of his commodities, and so pass it on to consumers at large.

PROTECTION FOR ENGLISH WORKMEN

But it was left, as usual, to Lord Salisbury to infuse solid argument with a light of satire. Most English manufacturers, said Lord Salisbury, were calling the bill socialistic. They seemed to him to be mistaken in their use of terms. Clearly it was the present system that was socialistic. Under the present system, when a railroad killed one of its engineers it passed his children over to the community to be sup-

ported in a poor house by the tax-payers. That seemed to him to weaken the sense of personal, private responsibility that a railroad company ought to have. It seemed to him to cultivate too great a readiness to fall back on the state. He was in favor of a change that would call on the state to do less, and on private employers to do more.

The government of 1897, which passed the first Workmen's Compensation act, was a Conservative government. The government of 1906, which passed the third and final act on the subject, was a Liberal government, strongly supported by a large Labor group in the House of Commons.

It may safely be said that the policy of Workmen's Compensation has been definitely and finally accepted by both the great English parties.

English workmen, like German workmen, are now able to get precisely calculated and immediately available compensation for their injuries as long as those injuries deprive them of their earning power. Unlike German workmen, however, they are not yet protected, as a body, against sickness.

TRADE-DISEASE COMPENSATION

But even in this matter a start has been made. Connected with the Workmen's Compensation act of 1906, there is a "Schedule of Occupational Diseases." The workman who is incapacitated by any of the diseases in that schedule has the same right to compensation that he would have had if he had met with an accident.

But the man's disease, under the English law, must be one that is directly caused by his trade. A caisson-worker who just happened to get typhoid fever wouldn't be entitled to compensation. He could get typhoid fever in any trade. It must be a disease for which the trade itself can be held responsible. And it must be a disease mentioned in the "Schedule of Occupational Diseases."

There are now twenty-four entries in that schedule. British workmen are now entitled to compensation for caisson disease, for lead poisoning, for mercury poisoning, for arsenical poisoning, for phosphorous poisoning, for nystagmus (a disease of the eyes caused by working in mines), for poisoning by anilin in dyeing establishments, and so on through a list of twenty-four specific bodily ailments caused specifically by certain modern industrial occupations.

The English trade-disease compensation scheme manifestly accounts for only a small corner of the whole broad field of sickness in general, so comprehensively covered by the German sickness-insurance system.

But even under the English scheme no such case could happen as recently came under the observation of the New York Charity Organization Society.

That society was appealed to for help by a family for which, in place of the charity-society card-catalogue number, we will imagine the equally effective disguise of the name of Jones.

Mr. Jones was dead and the Jones family was destitute. How did it happen? It is a short

story, very simple, very ordinary, very commonplace, and therefore very instructive.

Mr. Jones had been, first, a printer. In the printing-shop where he worked for a big publishing firm an accident happened to him, and he lost a hand. It was an ordinary, commonplace accident, and there was no legal claim to compensation. Jones simply walked out, less one hand.

He had to stop being a printer, but finally he got odd-job work as a painter. His one-handedness made it very difficult for him to keep himself clean of the white-lead paint. He got lead poisoning and died.

How was he killed? The process was begun by the printing trade and finished by the painting trade.

And how was his destitute family supported? By the contributors to a charity society.

It seems like a weird piece of logic, doesn't it, when you look at it with eyes not of established convention but of disencumbered common sense?

Jones's children are pauperized at the very outset of their lives because the printing trade crippled their father and the painting trade poisoned him.

THE AMERICAN WAY

The cost of that accident has not been escaped simply because neither the printing trade nor the painting trade was under any legal liability for it. The cost is borne by a number of people who, most of them, have nothing to do with either trade. What a poor way of bearing it! What

a foolish, indirect, unjust, expensive, humiliating, degrading way!

Under any rational system the Jones family would continue to be an independent, self-respecting family, and their legal, honorable indemnity would be paid to them by the trades that had caused their misfortunes.

It is time, in America, for the community to stretch out a strong right arm and readjust the American Law of the Killed and Wounded.

There is some reason to believe that America is beginning to realize. There are many evidences that the conscience of the nation is already stirred.

One of the most striking of these evidences is to be found in the numerous sickness-benefit clubs and accident-benefit clubs promoted by individual American employers among their employees. A whole article could be filled with an account of clubs of this kind.

THE SOLE REMEDY

But they suffer from many radical defects. They will not solve the question. They depend on the individual good-will of an individual employer. Or else, sometimes, on his desire to advertise himself. Or else, occasionally, on an unscrupulous, underhanded hope that by means of contributions by employees to a mutual insurance fund, the employer himself may be relieved of a large part of his legal obligations for all accidents that may happen.

Most private accident-insurance schemes are regarded with deep distrust by the employees

who are ordered, by a rule of the firm, to contribute to them. Those schemes are not a part of the law of the land. They are not officially sanctioned by public policy. They smack of philanthropy, at the best; and of sneaking self-seeking, at the worst.

And even if the best possible interpretation be placed on all of them, they remain, in their total, nothing but an unusually small drop in an unusually large bucket. The main mass of American workmen, whose employers are just average employers, remain totally unaffected.

The only avenue through which a broadly satisfactory reformation can be accomplished is the community itself; that is, the federal government and the state governments.

The timorous reluctance with which most American employers still regard the enactment of a public law on this subject is in itself a confession of weakness. And like most weakness, like most cowardice, it comes off worse among human beings than strength and courage would come off.

An abominable system of accident compensation is only one of many causes of social discontent in this country, but that discontent waxes apace. And, mostly, it is blind, angry, resentful, unconstructive. It is just discontent. And therefore doubly dangerous!

A nerveless, palsied, fear-stricken refusal on the part of any national community to put its hand to the root of social disorders and absolutely remove the ground from which they grow will always bring with it its own punishment in the way of unintelligent, though under-

standable, violent, and perhaps successful revolutionary agitation.

This cowardice, this fear, is what Emerson was talking about in his essay on "Compensation" when he said:

DEPRECIATION IN MEN

"We know that every thousand pounds of lead we manufacture costs somebody something. The man who is breathing that poison into his lungs, it costs him something. Now, should he and his children bear that burden or should we charge it up against the industry? Let us add an eighth of a cent a pound. Let us distribute it. Who will know it?

"When it is presented to the American people, I believe they will say it is just as fair to charge up every year the depreciation in men as it is to charge up the depreciation in machinery and buildings. And when we have done that, we will not only have done our duty to the great body of laborers, but we will not pay, in my judgment, a single cent more than we are paying now.

"We pay it all now just the same. Don't think for a minute we aren't paying it. We are paying it in the hospitals, in the poorhouses, in the degradation, in the pulling down of all these people, where they are swept under and become the submerged tenth simply because we aren't doing justice to them. Let us put upon every industry the cost of the depreciation of its own men. And let us pay it as we would any other honest bill."

This speech, like General Grant's memoirs, has the inimitable simplicity of the man. As for

its style, let it stand. It presents, beyond improvement, the full power of the argument for compensation for the misfortunes of industrial life. And as for its logic, are there any challengers?

"One thing Fear teaches, that there is rottenness where he appears. He is a carrion crow, and though you see not well what he hovers for, there is death somewhere. Our property is timid, our laws are timid, our cultivated classes are timid. Fear for ages has boded and mowed and gibbered over Government and Property. That obscene bird is not there for nothing. He indicates great wrongs that must be revised."

And among the wrongs that must be revised there are few that go more deeply into the marrow of industrial life than the method now existing in America for compensating the men and women taken out of industrial life and stretched on beds of pain and poverty by the antics of the physical, material machinery through which modern civilization is perpetuated.

When that wrong is revised, a long step will have been taken toward social peace and mutual social unembarrassed fearlessness (which is the greatest gift modern national life can hold) between those that own and operate property and those that own and sell labor.

EMPLOYERS WHO SEE

Here and there, among American employers, there arises one who sees through the complicated color-plates of the present along the converging lines of the picture cast by social forces on the screen of the future.

Among such employers Mr. T. K. Webster, of the Webster Manufacturing Company, spoke perhaps the noblest, as well as the simplest and most unstudied and unaffected, words ever spoken on the subject of industrial accidents by any American employer when, in a little impromptu speech late one afternoon, before the City Club of Chicago, after the regularly appointed speakers of the day had taken their seats, he rose impulsively and said:

"It is a matter of depreciation in men, just like depreciation in machinery. I presume there is not a manufacturer in Chicago but what, when he figures up his condition at the end of the year, charges off a certain amount for depreciation. It is the most natural thing in the world that he should do so. His tools wear out in from ten to twenty years, and if he keeps them on the books all that time he is simply fooling himself.

"Last year, I remember, our balance-sheet showed that we charged off something like $20,000. Do I go grumbling around and saying that it is an awful thing to thus charge off $20,000? Why, no! It is the depreciation. Now, friends, in God's name, why should we not allow for the depreciation in men?"

WHAT TO READ ABOUT AUTOMATIC COMPENSATION

1. Bulletin Number 74 of the United States Bureau of Labor, January, 1908.
   Foreign Workmen's Compensation Acts—pp. 121 to 158, inclusive.
   (Write your Congressman.)

2. Thirteenth Biennial Report of the Wisconsin Bureau of Labor, 1907–8.
   Industrial Accidents and Employers' Liability in Wisconsin—M. O. Lorenz.
   (Write J. D. Beck, Wisconsin Commissioner of Labor, Madison, Wis.)
3. Fourteenth Biennial Report of the Wisconsin Bureau of Labor, 1909–10.
   Industrial Accidents in Wisconsin—M. O. Lorenz.
   (Write J. D. Beck, Wisconsin Commissioner of Labor, Madison, Wis.)
4. Bulletin Number 39 of the New York Department of Labor, December, 1908.
   Employers' Liability or Workmen's Compensation?—L. W. Hatch.
   (Write John Williams, New York Commissioner of Labor, Albany, New York.)
5. Proceedings of the Second Annual Meeting of the American Association for Labor Legislation.
   Papers by Crystal Eastman and M. O. Lorenz.
   (Write John B. Andrews, American Association for Labor Legislation, Metropolitan Building, New York.)
6. "The German Workmen's Insurance as a Social Institution."
   Five admirable papers compiled by order of the German Imperial Insurance Office for the Universal Exposition at St. Louis, 1904.
   These papers are by Lass, Klein, Hartmann, Bielefeldt, and Zahn. They are in English. They are authoritative in source

and full in detail. They treat the subject from all possible standpoints.
(Write the Imperial Insurance Office, Berlin, Germany.)

7. Fourth Special Report of the United States Commissioner of Labor, 1895.
Compulsory Insurance in Germany—John Graham Brooks.
8. "Workingmen's Insurance."
By W. F. Willoughby.
Crowell and Company, New York, 1898.
9. "Industrial Insurance in the United States."
By Charles R. Henderson.
The University Press, Chicago, 1909.

EXPERT OPINIONS

FROM THE STANDPOINT OF THE EMPLOYER

By CHARLES H. HULBURD

President of the Elgin National Watch Company, one of the largest watch companies in the world.

Compensation for industrial accidents has been the subject of careful consideration and discussion on the part of the Industrial Commission of Illinois, with which I was recently connected.

I am thoroughly committed to the idea that the business should carry the risk of accidents. A certain number of accidents will happen every year in all manufacturing business. In the aggregate, it is a tremendous loss. This loss may be reduced to a minimum, but it can never be entirely obliterated, and it should be borne by that proportion of the people of a community

who profit by the industry carried on. In other words, it should be added to the cost of the goods.

The employer carries fire insurance, and calls it a part of the cost of doing business. For the same reasons, the employer should carry accident insurance and charge it to the cost of doing business.

I favor legislation tending to assess accidents upon the employer, because I believe that is fairer to the employee who is injured, and because I think it will, in the end, tend to prevent accidents and increase the appliances for safety and would reduce litigation and discourage the bringing of suits for unjust claims, and because I believe that in this way the total cost to the community, as a whole, will be less than it is under the present system.

Many years ago there was inaugurated in New England what was termed "Factory Mutual Fire Insurance." It was done at the time when the losses by fire among the New England factories were very great, and when the cost of insurance was necessarily very high. The formation of these mutual insurance companies has without doubt increased enormously the number of appliances for preventing fire, and has reduced greatly the number of fires in these New England factories. Consequently, the business is carried on at a minimum of expense and at very much less cost than with the regular insurance companies.

I believe that laws could be devised which would accomplish, in the case of accidents, the same result that has been reached in the case of fire. Were the burden of the loss assessed upon

the employer, he would at once adopt measures to prevent accidents, which he had never done before. I realize that the compulsory laws now in force in Germany would have to be decidedly modified before their adoption in this country. Such laws would have to be very carefully drawn, to stand the test of constitutionality, but I am sure that some laws could be drawn which would tend to accomplish the desired result.

This "social policy" is only justice to the injured employee and the righteous method of fairly equalizing the costs of accidents incident to progressive manufacture, and, in the long run, would be more economical to the community, as a whole, than the present method.

FROM THE STANDPOINT OF THE LABOR LEADER

By JOHN MITCHELL

Formerly head of the United Mine Workers of America, now chairman of the Trade Agreement Department of the National Civic Federation.

I have read with keen interest the articles printed in *Everybody's Magazine* upon the subject of compensation for industrial accidents.

This is a question with which the workingmen of our country are vitally concerned. For many years the American trade unionists have been trying to have the national congress and the state legislatures enact laws making employers responsible financially for injury or death caused by accident to the workmen in their employ. This proposed legislation has usually taken the form of Employers' Liability Acts, but in recent years

there has grown up a strong sentiment in favor of workmen's compensation laws.

From my investigation into the subject, I am quite convinced that compensatory legislation would prove more efficacious in diminishing the number of accidents and providing relief for those who are injured and for the dependents of those who are killed than any other form of legislation which has up to this time been suggested. Workmen's compensation laws such as are now in force in Great Britain—working automatically, as they do—would, I believe, prove of greater benefit to the injured workman, and perhaps less expensive to the employers, than would liability laws, even though such laws abridged the law of contributory negligence or assumed risk, because the compensation laws would obviate the necessity or possibility of long and expensive litigation.

It is not at all to the credit of our country and its institutions that hundreds of thousands of workmen are annually injured and many killed while pursuing their regular and daily employment, especially so when we consider that the large proportion of such accidents could be easily avoided.

It is high time that the expense of killing and maiming workmen should be made so heavy that it would be cheaper to protect and save them from injury, as well as to make suitable provision for compensating the workmen who are injured and the dependents of those who are killed. And to this end there should be charged against industry and set aside from its earnings a fund out of which such reasonable compensation should be

paid as would, in a measure, at least, provide for a man or his dependents, who has given in the interest of industry his limbs or his life.

FROM THE STANDPOINT OF THE LAWYER

By LOUIS D BRANDEIS

[*Mr. Brandeis's practical suggestions in this matter derive great weight from his varied experiences and distinguished services in such similar matters as the Massachusetts savings-bank-insurance law and the Boston and Maine pension system.*]

THE urgent need in America of introducing an adequate system of accident insurance for workingmen has become apparent. A gross injustice to our industrial employees, and the reckless manufacture of paupers and of discontents, must cease. The volume of wasteful and demoralizing accident litigation which congests our courts must be reduced.

The question is no longer: "Should we establish an accident-insurance system?" but "What accident-insurance system shall be adopted, and when shall it be introduced?"

Obviously the system to be adopted should be of such a nature as would

First: Eliminate preventable accidents so far as possible.

Second: Compensate promptly and adequately for the loss sustained.

It is improbable that any State will introduce immediately a system which is both comprehensive in its application and otherwise satisfactory.

Much preliminary educational work must be done, and progress toward the general introduction of any system of workingmen's accident insurance will doubtless be slow. But it is important that each step which is taken shall be in the right direction, and that no essentials of a satisfactory system be disregarded. These essentials appear to be as follows:

1. Compensation should be awarded as a matter of right for every industrial accident, whatever its cause, unless intentional on the part of the workingman.

2. The funds required to make compensation should be raised by contribution from both employer and employee, preferably in equal shares, and proportionately to wages.

No system can be effective in preventing accidents which is not of a nature to secure the fullest coöperation of employer and employee; and none can be just which does not place the burden of making compensation for accidents actually occurring jointly upon those who jointly had the responsibility of preventing them.

3. The compensation should be fairly commensurate with the loss. It should extend to the protection of the dependent widow and children. It should be made not in a lump sum but in instalments continuing throughout the period of need. It should so far as possible be definite in the amounts to be paid, and should bear a just relation to the amounts contributed.

4. The right to receive compensation should be inalienable and should be exempt from being taken by any form of legal process.

5. The extent of the employer's liability should be definite, so as to be calculable as a fixed expense of the business.

6. Every accident resulting in payment of compensation should be investigated with a view to determining its cause, and to preventing the recurrence of a similar accident. The investigation should be undertaken by a jury or board composed of representatives of both employer and employee.

7. The responsibility for the prevention of accidents, and the administration of the compensation funds, should be vested in a Board composed of representatives of both employer and employees.

8. The accident insurance system should, so far as it applies, absolutely preclude resort to the courts for compensation, except to enforce, if necessary, rights to the insurance.

9. The whole system should be under such complete supervision by state officials as to ensure not only absolute safety of the insurance funds, but also efficient and just administration.

The British Compensation Act fails to satisfy most of these essentials. It lacks wholly the elements tending to joint effort on the part of the employer and employee in preventing accidents; it contains no provision for contribution by the employee; it so limits the compensation as to leave it insufficient to indemnify for the loss; it does not provide adequate security for the amounts actually payable; it does not preclude resort to the courts on the ground of negligence, and thus, among other things, leaves the extent of employer's liability uncertain.

The Continental Compulsory Insurance Acts more nearly meet the requirements of a satisfactory American system. They fail, however, in the essential of coöperation between employer and employees. Under them the employees make no contribution, and are not charged with joint

responsibility for the prevention of accidents. Furthermore, the compulsory feature of the Continental Acts might meet in some States with insuperable constitutional obstacles, and would doubtless meet everywhere with serious opposition.

The bill prepared by the Illinois Industrial Commission recognizes most of the essentials of a satisfactory American system, and is not open to constitutional objections; but it does not provide sufficiently for coöperation between employer and employees, and the assumption by them of joint responsibility. Furthermore, its application is limited by the requirement of securing a separate indemnity contract from each individual employee and the likelihood of the use of coercion in securing the making of such contracts. It also fails to provide adequately for state supervision. The bill, it is said, is regarded as "largely an educational measure to pave the way for a more comprehensive system of insurance in the future, as the Commission fully recognized that the experience of European countries showed clearly that voluntary insurance is only partly effective."

The primary purpose of any accident-insurance system, however, should be the prevention of accidents. To this end, there must be joint inquiry by employer and employees into all accidents with a view to preventing their recurrence.

None of the Acts passed or proposed appear to have provided so effectively for such investigation as did the South Metropolitan Gas Company of London in connection with its private

accident-insurance plan. Its provision is therefore submitted as a model for such Boards of Inquiry:

Juries of Workmen

Rule XX.—The system, introduced in 1892, of an inquiry into accidents by a jury of twelve workmen shall be continued in accordance with the following regulations:

1. An inquiry shall be made within the first fortnight, if possible, into *every* accident that is a charge on the Fund.

2. At the discretion of the Engineer an inquiry may be made into any accident that is not a charge on the Fund, or that results in loss of, or damage to, property.

3. That such inquiries be made by a Jury consisting of 12 Workmen presided over by the Engineer of the Station, except in fatal cases, when the Chairman, or one of the Directors of the Company shall preside, and in these cases the inquiry shall be subsequent to the Coroner's inquest.

4. In order to secure a fair selection of Jurymen an alphabetical list shall be made in the month of May, every third year, at each Station, of all the men who have been three years in the Company's service; and in selecting a Jury, the names shall be taken in the order in which they appear on the list. Every Jury shall consist of not more than two members of the Co-partnership Committee of the Station, not more than four from the Department in which the accident happened, and the remainder taken in order from the Jury list—men required as witnesses are not to serve on the Jury. Any man, excepting the Members of the Co-partnership Committee, having served on a Jury shall not again

serve until the whole of the names on the list have been called in their turn.

5. The Jury and the Presiding Officer shall call witnesses and hear evidence, and thoroughly investigate all the conditions and circumstances connected with the Accident. The Jury shall then retire alone to consider and endeavor to agree upon a verdict.

6. The Jury shall endeavor to the best of their ability to arrive at the real cause of the Accident, and when they have done so shall state their honest conviction, not hesitating to say whether any blame attaches to any Official or Workman, or whether the plant, machinery, or means of protection were defective, if they are satisfied that there has been any neglect or carelessness or defect.

7. The Jury, in consultation with their President, shall, when necessary, determine in which class the injured man shall be placed. This point, whenever there is any doubt, shall be decided by ballot, and by a two-thirds majority, only the 12 Jurymen voting. On this point either the injured Workman or the Engineer of the Station is to have a right of appeal to the Chairman of the Company, whose decision shall be final.

8. If, in the opinion of the Jury, anything can be done to prevent a similar Accident in future, they shall make such recommendation as they may consider necessary.

9. The inquiry shall take place in public, that is, in the presence of as many of the Workmen as can conveniently attend without unduly interfering with their work, and, where practicable, the inquiry shall be held on the spot where the Accident happened.

10. The verdict of the Jury shall be posted up in one or more conspicuous places about the works, and particulars with a summary of the case and the proceedings thereon, with the verdict and the

names of the Jurymen, shall be recorded in a book kept at the Station for the purpose. A copy of this summary shall also be sent to the Secretary of the Company, to be laid before the Directors.

NOTE.—The following questions are submitted as a guide to the Jury, to be used at their discretion, to which they may add any remarks they may consider necessary:

QUESTIONS

1. Was the Accident caused by any neglect on the part of anyone connected with the Company, and if so, who was in fault?
2. Was there any defect in the plant or materials used, and if so, state what it was?
3. Was there any mistake in the manner in which the work was done, and if so, state its nature?
4. Was the Accident the result of any negligence or carelessness on the part of the injured man?
5. Was it a pure Accident for which no one was to blame?

Under the operation of this system of jury investigation the percentage of accidents of the South Metropolitan Gas Company was reduced in the course of ten years to about one-half.

The bill recently introduced in Massachusetts "to authorize the Boston & Maine Railroad and its employees to establish a coöperative pension system" perhaps points the way to a satisfactory American Accident Insurance System. It is strictly coöperative and its "elective obligatory" provision appears to meet the objections found both in the strictly voluntary and in the compulsory system.

The Boston & Maine bill provides for an old-age pension system based upon contributions from both the company and the employees, to be administered by them jointly, subject to the closest state supervision. The pension system, however, becomes operative only if accepted both by the company and by the employees by a vote of two thirds of the employees voting thereon. If the system is so accepted it becomes the law for the concern, obligatory upon all persons thereafter entering the employ of the company, and also upon all persons then in its employ who did not vote against the establishment of the pension system and who do not, within three months after the vote, record their objection thereto in writing. The provisions in this respect are embodied in Sections II and III of the bill, as follows:

Section II.—The Railroad may, in conjunction with its employees, establish a system for the payment of pensions to its employees as hereinafter set forth, to be known as the Boston and Maine Pension System. This Pension system shall be established if and whenever votes to establish the same are duly passed:

(1) By the Directors, and

(2) By a vote of two-thirds of the employees voting thereon; the vote to be taken in a manner to be determined by the President of the Railroad.

A copy of the vote of the Directors certified to by the Clerk of the Directors, and a copy of the vote of the employees sworn to by the President or a Vice-President of the Railroad, shall, within thirty days respectively after such vote, be filed in the office of the Insurance Commissioner of this Commonwealth of Massachusetts, who shall, forthwith,

issue a certificate that the pension system is declared established, to become operative on the first day of January or the first day of July, following the expiration of three months after the date of such certificate.

Section III.—A Pension Association shall be organized as follows:

(1) All employees of the Railroad on the date when this Pension System is declared established by the issue of the certificate as provided in Section II, may become members of the Association.

On the expiration of three months from said date every employee shall be considered to have elected to become, and shall thereby become, a member, unless he shall have voted against the acceptance of this Act, and also shall have, within that period, sent notice in writing to the President of the Railroad that he does not wish to join the Association.

(2) All employees who enter the service of the Railroad after the date when the System is declared established shall become thereby members of the Association.

A general Coöperative Accident Insurance Law framed on these lines may prove the best method of approach toward a satisfactory comprehensive system. The great advantages which such a system would offer as a substitute for the chaos of waste, uncertainty, and discontent involved in applying the existing law of negligence would ensure its acceptance by enlightened employers and employees; and education and example would doubtless lead to its being extensively adopted.

FROM THE STANDPOINT OF THE ECONOMIST

By M. O. LORENZ

*Assistant Professor of Political Economy in the University of Wisconsin—Deputy Commissioner in the Wisconsin Bureau of Labor.**

In this discussion it will be taken for granted that the need for a sweeping reform in our law of employers' liability has been demonstrated. The question before us is, What can be done? Fortunately we are not left entirely to invention and conjecture in this matter, as we are able to profit by the experience of many foreign countries. To attempt to describe in detail the laws in force in all countries that have legislated upon this subject would only confuse the reader, but the main lessons taught by foreign experience will be embodied in the following presentation of four conceivable ways of attempting to solve the problem of how to adjust the financial claims arising out of industrial accidents:

I.—The plan of letting every man take care of himself.

II.—Voluntary Workingmen's Collective Insurance.

III.—Absolute employers' liability.

IV.—Compulsory insurance.

I.—The Plan of Self-Help

In our legal theory, adult males are free and equal in their rights and ought to be able to take care of themselves, and to those who have been

* Since this article was put in type the writer has resigned these positions to enter the Federal Service.—Ed.

brought up in this way of thinking it seems natural to say that each man ought to buy his own accident insurance in the same way that he buys his own fire insurance. This attitude is embodied in the savings-bank life insurance system that is being tried in Massachusetts, which assumes that the workingman can be induced to go to a savings-bank without the solicitation of agents to buy protection. If one wished to follow out this idea and apply it to the problem before us, one would have to enact two kinds of legislation:

(*a*) It would be necessary to modify the law of negligence to make it at least theoretically just, even though it did not in itself offer full protection to the workingman. We are familiar with attempts in this direction. Modifications of the fellow-servant rule and of the doctrine of the assumption of risk occur repeatedly in American legislation. The kind of legislation this would lead to is indicated by the proposal to extend to all dangerous industries the law which is now in force in Wisconsin with respect to railroad employees, a law which has been recently upheld by the Supreme Court of Wisconsin as a proper exercise of the police power. The substance of this statute is as follows:

> In all cases where the jury shall find that the negligence of the company, or any officer, agent or employe of such company was greater than the negligence of the employe so injured, and contributing in a greater degree to such injury, then the plaintiff shall be entitled to recover, and the negligence, if any, of the employe so injured shall be no bar to such recovery.

And possibly, too, the idea of comparative negligence would be embodied in such legislation, according to which the damages are divided in proportion to the negligence of each party.

(*b*) But this in itself would not afford relief to the employee in more than half the cases of accident. It would be necessary, if we wish to follow out the idea of self-help which we are now discussing, to give workingmen the opportunity to buy for themselves accident insurance at a fair price with full security. The Massachusetts plan above referred to would show in detail how this could be done.

But there are two telling objections to this whole scheme of self-help. (1) It would not be immediately effective. It would take perhaps one hundred years of educational endeavor to bring any large proportion of the workmen in dangerous industries into the system. It may be replied that it is better to go slowly in order to develop self-reliant men rather than to have a nation of thriftless weaklings protected by compulsory insurance. Yet this way of thinking has been rejected by all foreign countries with respect to accident insurance, and probably we shall reject it, too, in the end. (2) A second objection is that the evils connected with damage suits would not be eliminated.

II.—Voluntary Workmen's Collective Insurance

It is possible to-day for an employer to buy from an insurance company what is known as a workmen's collective policy, whereby his em-

ployees become insured against accident while at work for him, the employer being responsible for the premium, which he may pay entirely himself or assess in part upon his men. Again, other employers have organized accident funds for the benefit of their employees. Such insurance, is not, however, widely extended and varies greatly in detail. A second line of legislation would encourage and regulate insurance of this kind by making it conform to a type outlined by law as being fair, and by authorizing the employer to make a contract with his men whereby the insurance benefits would be accepted in place of any possible damages under the law of negligence. This is the plan of a bill introduced in the legislature of Illinois in 1907. This bill, which follows, was carefully drawn and has great merit:

A BILL

For an act to facilitate the insurance of employes against the consequences of accidents resulting in personal injury or death and to permit agreements between employers and employes with reference to such accidents.

Insurance Contract Legalized

SECTION 1. *Be it enacted by the People of the State of Illinois, represented in the General Assembly*: That it shall be lawful for any employer to make a contract in writing with any employe whereby the parties may agree that the employe shall become insured against accident occurring in the course of employment which results in personal injury or death, in accordance with the provisions of this Act, and that in consideration of such insurance the employer shall be relieved from the consequences of acts or omissions by reason of which he would without such contract become liable toward such employe or toward the legal representative, widow, widower, or next of kin, of such employe.

Employer Protected against Loss

SEC. 2. Such insurance shall be effected in some casualty insurance company, organized under the laws of the State of Illinois or admitted to do business in this State, provided that any employer employing not less than fifteen hundred (1500) employes may establish an insurance fund from sums contributed by himself and his employes, upon condition that he undertake and agree to make up any deficiency in insurance benefits that may arise out of the inadequacy of such fund. Such fund shall be inviolably appropriated as a trust fund for the purposes of such insurance, and shall not be invested otherwise than in accordance with the provisions of section 14 of an act to provide for the organization of mutual insurance corporations, approved May 16, 1905. Provision shall be made for the election by the insured employes of an advisory committee which shall be kept informed regarding the state of the insurance fund and shall have the right to examine the books kept in connection therewith. Such books shall also be subject to the inspection of the insurance superintendent of the State in the same manner as the books of insurance companies doing business in this State.

Upon the request of the employer, or upon the request of the advisory committee, the Insurance Superintendent shall act as depositary of the securities in which any such fund may be invested.

If any employer desires to discontinue an insurance fund maintained by him, or if he discontinues his business without transferring the same to a successor or assign taking over and agreeing to maintain such fund, he shall notify the Insurance Superintendent of his purpose, who shall thereupon supervise the disposition of the insurance fund. Such fund shall be distributed among those equitably entitled to it according to their contributions (not taking into consideration expenses of the management), and where those entitled to any part of the fund cannot be discovered or ascertained the moneys remaining unclaimed shall be paid into the insurance department to be held and disposed of as may be provided by law. The Insurance Superintendent shall be entitled to be paid out of such fund the reasonable expenses of his supervision including a compensation not to exceed ten dollars per day for the time of any person or persons (other than a salaried employe of his office) employed by him for the purpose of such supervision necessarily spent in connection therewith.

Compensation regardless of negligence

SEC. 3. Such insurance shall cover the risk of personal injury by accident arising out of and in course of the employment resulting in death, provided death occur within twelve months from the time of such injury, or resulting in disability, whether the same be total or partial, permanent or temporary.

SEC. 4. The insurance in case of death shall be for the benefit of such persons, being the widow, widower, father, mother, grandfather, grandmother, stepfather, stepmother, son, daughter, grandson, granddaughter, stepson, stepdaughter, brother, sister, half-brother, or half-sister, as are dependent wholly or in part for their support upon the earnings of such employe (all of which persons are hereinafter designated as dependents of such employe) or of such of them as may be named in the contract or the policy to which it refers and the persons for whose benefit such insurance is made shall be bound by the agreement authorized by the first section of this Act.

Scale of benefits

SEC. 5. In order to satisfy the requirements of this Act the benefits payable under such insurance shall be at least as follows:

(i) In case of death.

(a) If the employe insures for the benefit of any dependents wholly dependent upon his wages at the time of his death, a sum equal to his wages in the employment of said employer during a period of three years next preceding the accident, but not less, in any case, than the sum of one thousand dollars, provided that the amount of any weekly payments made under such insurance or any lump sum paid in redemption thereof may be deducted from such sum, and if the period of the employe's employment by said employer has been less than said three years, then the amount of his earnings during the said three years shall be deemed to be one hundred and fifty-six times his average weekly earnings during the period of his actual employment by said employer.

(b) If the employe insures for the benefit only of persons partly dependent upon his wages at the time of his death, then a sum equal to the payments provided for the benefit of persons wholly dependent less six times the average annual earnings, or if employed for less than a

year, then less three hundred times the average weekly earnings of the said dependent person or persons partly dependent on his wages.

(c) If the employe leaves no dependents, then the reasonable expenses of his medical attendance shall be paid; and in addition, burial expenses not less than $75 nor more than $100 shall be paid.

And the contract or the policy therein referred to may provide for the payment, instead of a lump sum, of a weekly sum which, in the case of persons wholly dependent, shall not be less than the weekly payment in case of total disability hereinafter provided for, and which in the case of persons partly dependent shall not be less than the weekly payment in case of total disability, less the amounts earned by the persons partly dependent, and which sum may be divided between the dependents in such manner as such contract or policy may provide or as may otherwise be agreed upon; or such contract or policy may provide for a combination of lump sums and weekly payments, or for the substitution of one for the other.

(ii) In case of injury not resulting in death, where total disability results from the injury, a weekly payment during the period of such disability shall be paid to the insured, which shall not be less than 50 per cent of his average weekly wages during the previous twelve months, if he has been so long employed by the contracting employer; if not, then a weekly benefit during the period of such disability, which shall not be less than 50 per cent of his average weekly wages during such shorter period as he has been in the employment of said employer.

(iii) In case of injury not resulting in death, where partial disability results, such weekly payment shall be made during the period of such partial disability as is equal to the difference between the weekly benefit payment during the period of total disability and the average amount which the injured person is able to earn after the accident. Loss by actual separation at or above the wrists or ankles of both hands or both feet, or of one hand and one foot, or the irrevocable loss of both eyes shall be deemed to be equal to total disability; the loss by actual separation at or above the wrist or ankle of one hand or one foot shall be equal to one-half of total disability; and the loss of one eye shall be equal to one-fifth of total disability. Total disability shall be deemed to mean inability to carry on any gainful occupation.

The contract or the policy herein referred to may provide that no benefits shall be paid in case of any injury which does not incapacitate the employe for a period of at least one week from earning full wages at the work at which he was employed at the time of the accident.

Joint Contribution

SEC. 6. Any contract, in order to satisfy the requirements of this Act, shall provide that the employer shall contribute not less than 50 per cent of the insurance premiums and the employes shall contribute the remainder of the premiums. In case the employer provides any insurance fund out of contributions made by himself and his own employes as above provided, such employer shall pay the whole of the expenses of the management of such fund and all contributions shall be paid into such fund without any deduction by reason of such expense.

SEC. 7. The contract may provide that upon penalty of forfeiture of the benefits of the insurance the employe shall give reasonable and timely notice to his employer, to be fixed by the terms of the contract, of any accident which may entitle him to the benefits of such insurance, and that he shall submit himself to medical examination as required by the employer at the employer's expense.

SEC. 8. The contract may provide that the premium payable by the employes shall be deducted from their wages. An employer who shall wilfully and feloniously appropriate the amounts so deducted from the wages to any use other than the payment of insurance premiums as stipulated in the contract, shall be guilty of embezzlement, and shall be punished accordingly.

SEC. 9. The contract between the employer and employe may provide that the insurance premiums shall be paid into the hands of a treasurer to be elected or appointed by the employes or by the employer and the employes in such manner and under such voting arrangements as the contract may specify. The payment of the premiums to the treasurer shall relieve the employer, and the penalty above prescribed for misappropriation of the funds required to be applied to insurance shall apply to such treasurer.

SEC. 10. In case of non-payment of the premiums within one month after the same are payable, the insurance company shall within two months after the expiration of such month send notice of such default by mail to the insured and to the insurance superintendent of the State. The insurance policy or the contract between the employer or employe may specify a shorter period than the one herein provided for. Until the required notice shall have been sent, the policy shall not be forfeited for non-payment of the premium.

SEC. 11. The employer may also advance the premiums of insurance for such number of employes and at such rates as may be agreed upon between him and the insurance company, and may thereupon be supplied by the in-

surance company with blank policies to be filled in by him with the name of any beneficiary under the provisions of this Act and to be executed by him as agent of such company; and he may thereupon reimburse himself for the amounts payable by the employe by deducting the same from the wages of such employe.

SEC. 12. Such contract may provide that upon termination of his employment, from any cause whatever, the employe and his dependents shall cease to be entitled to the benefits of such insurance except as regards accidents occurring before the termination of his employment.

Arbitration

SEC. 13. Such contract may provide that any controversy regarding the extent of disability or the extent of dependency, or any controversy between dependents as to the amounts payable to them respectively, shall be settled by arbitration, the arbitrators to be named by the mutual consent of the parties, and should the parties fail to agree upon an arbitrator, then the arbitrator to be named by a judge of the circuit court of the county in which the accident happened, and the award of such arbitrar shall be binding upon both employer and the employe or his dependents as the case may be.

SEC. 14. Any insurance paid in accordance with the provisions of this Act shall not be liable to attachment by trustee, garnishee, or other process, and shall not be seized, taken, appropriated or applied by any legal or equitable process, or by operation of law, to pay any debt or liability of the insured or any beneficiary, nor shall any claim to insurance money be assignable by the payee before the same is paid.

SEC. 15. A contract for insurance in pursuance of the terms of this Act shall not relieve the employer from liability for any accident due to his failure to comply with the lawful directions of any competent administrative authority given in the interest of the safety of employes, unless it shall have been impossible to carry out such directions by the time that the accident happened, or unless the enforcement of such direction has been suspended by the order of a court of competent jurisdiction.

Public Supervision

SEC. 16. Every employer shall file with the Insurance Superintendent a copy of the form of contract and policy which he shall use under the provsions of this Act and in the event of such form being departed from in any par-

ticular case, shall also file a copy of such particular contract. If he shall fail to do so he shall be liable to a penalty of $50.00, in each case to be recovered in an action of debt in the name of the people of the State.

SEC. 17. A quarterly report of all settlements and payments of insurance benefits shall be filed by the employer with the Insurance Superintendent. If such employer shall fail to make such report in thirty days after demand by the Insurance Superintendent, he shall be liable to a penalty of $50.00, to be recovered in an action of debt in the name of the people of the State.

SEC. 18. The Insurance Superintendent shall prepare blanks of contract and policies complying with the provisions of this Act and shall distribute the same upon application free of charge.

SEC. 19. Nothing in this Act contained shall be construed as authorizing any employer and any officer or agent of such employer to require any employe or any person seeking employment as a condition of such employment or of the continuance of such employment, to enter into a contract, or to continue in such contract, such as is authorized to be made by Section 1 of this Act.

It should be said that the Illinois Industrial Insurance Commission, which prepared this bill, looked upon it as largely an educational measure to pave the way for a more comprehensive system of insurance in the future, as the commission fully recognized that the experience of European countries showed clearly that voluntary insurance is only partly effective, and it should also be said that the commission recommended changes in the Illinois statute relating to the organization of mutual insurance companies so that employers would not be compelled to resort for their insurance to the private liability companies, which are necessarily managed in a wasteful manner under competitive conditions. The great advantage of this scheme for present adoption is the fact that it is clearly within the constitution, as it contains no theoretical element of compul-

sion, and employers and employed are supposed to be free to enter into the contract permitted by section 1, but practically it might mean that the employer can compel the employee to enter the scheme by refusing him employment if he refuses to sign the necessary papers. With proper safeguards this would not constitute a real objection, as it would simply mean that the thriftless employees would get insured. Probably the bill as printed could be advantageously modified to secure more certain public supervision and more complete statistical reports. It would be desirable to have a strong commission supervising the entire system, to which appeals could be taken if local boards of arbitration did not adjust the settlements satisfactorily, and such a commission should receive and combine the statistical reports required by law, and make investigations of its own.

A bill embodying these modifications has recently been introduced in the Wisconsin legislature and seems a satisfactory measure on the supposition that no form of compulsory insurance or absolute liability will stand the constitutional test. Such a supposition is, however, by no means final, for if such a voluntary measure proves ineffective compulsory insurance must be upheld as a reasonable regulation of contracts, there being no direct prohibition of compulsory insurance in our constitutions.

III.—Absolute Employer's Liability

Many Americans do not take kindly to the extension of governmental machinery, and to them

the English compensation act will doubtless appeal. This act simply says, the employer must pay damages to his employees who are injured in the course of their employment for practically all accidents regardless of negligence. The employer is left to meet this obligation as he pleases. He is not compelled to insure, and many of the smaller employers do not insure themselves against this liability. If the employer is bankrupt and is not insured, the workman has no guarantee of his indemnity, although he is a preferred creditor. The absolute liability imposed by this act is for a moderate, limited compensation, so that it has not proved burdensome to employers, and yet doubtless gives the workmen as a class more than they would get under the old system. This act, it is important to note, leaves untouched the old law of negligence, so that the workman can, if he chooses, bring a damage suit as before, but he cannot then claim the new compensation in addition. He may adopt either method of seeking redress, but not both, and if he fails in a damage suit, he can still ask compensation under the new act, although he may be called upon to pay the costs of the litigation. When the employer insures himself, the policy protects him against both forms of liability.

Bills following the English plan have been introduced in American legislatures for a number of years. A royal commission appointed by the government of the Province of Quebec has recommended a similar bill in its recent report (1909). The bill which follows is of particular interest because it is advocated by a socialist

organization, the Wisconsin State Federation of Labor:

STATE OF WISCONSIN

IN ASSEMBLY

January 21, 1909.—Introduced by MR. BROCKHAUSEN. Read first and second times and referred to committee on Manufactures and Labor.

A BILL

SECTION 1. There are added to the statutes twenty-eight new sections to read:

SEC. 1729j—1. In this act, unless the context otherwise requires:

(1) "Railroad" shall be defined as in section 1797—2 of the statutes.

(2) "Factory" shall mean any premises where steam, water or other mechanical power is used in aid of any manufacturing process there carried on.

(3) "Workshop" shall mean any premises which is not a factory as above defined, wherein manual labor is exercised by way of trade, or for purposes of gain in or incidental to a process of cleaning, making or preparing any article, or part of any article, for use or sale; but the exercise of such manual labor in a private house or private room by the family dwelling therein, or by any of them, shall not of itself constitute such house or room a workshop within this definition.

(4) "Employer" or "contractor" shall embrace corporations, companies, individuals, associations of individuals, their lessees, trustees or receivers, and the legal representatives of deceased employers.

(5) "Dependents" shall mean members of the employe's family or next of kin who were entirely or partly dependent upon the earnings of the employe at the time of his death.

(6) "Engineering work" shall mean any work of construction, operation, alteration or repair of a railroad, street railway, of the works of gas, water, telephone, telegraph, electric light companies, harbor, dock, vessel, canal, sewer, and any work for the construction, alteration or repair for which machinery driven by steam, water or other mechanical power is used.

Compensation Regardless of Negligence—Statement of Industries Covered

SEC. 1729j—2. When any person shall receive personal injuries while performing duties growing out of or incidental to employment for, in or about a railroad, street railway, factory, workshop, warehouse, mine, quarry, engineering work, and any building which is being constructed, repaired, altered or improved by means of a scaffolding, temporary staging, or ladder, or being demolished, or in which machinery driven by steam, water or other mechanical power is being used for the purpose of construction, repair or demolition thereof, such person, if incapacitated by said injury for at least one week, shall be entitled to receive compensation from his employer as hereinafter provided, excepting such persons as receive said injuries by reason of their own wilful or fraudulent misconduct.

Scale of Benefits

SEC. 1729j—3. In case death results from the injury the amounts of compensation payable under this act shall be as follows:

(1) If the employe leaves any dependents wholly dependent upon his earnings at the time of his death, a sum shall be payable equal to his earnings in the employment of the same employer during the three years next preceding the injury, or the sum of one thousand dollars, whichever of those sums is the larger, but not exceeding in any case two thousand dollars; provided that the amount of any weekly payments made under this act shall be deducted from such sum; and if the period of the employe's employment by the said employer has been less than the said three years, then the amount of his earnings during the said three years shall be deemed to be nine hundred and thirty-six times his average daily earnings during that period of his actual employment under the said employer.

(2) If the employe leaves only dependents partly dependent upon his earnings at the time of his death, a sum shall be payable not exceeding in any case the amount payable under the foregoing provisions of this section, as may be agreed upon, or, in default of agreement, may be determined by arbitration as hereinafter provided.

(3) If the employe leaves no dependents, the reasonable expenses of his burial and last sickness shall be payable, which shall not exceed one hundred and fifty dollars.

SEC. 1729j—4. In case total or partial incapacity for work results from the injury the amount of compensation payable under this act shall be as follows:

In such case a weekly payment during the incapacity after the first week shall be payable, which shall not be less in amount than thirty-three per cent of his average weekly earnings during the previous twelve months, if he has been so long employed; but if not then a weekly payment shall be payable equal to the percentage allowed of six times his average daily earnings for any less period during which he has been in the employment of the same employer.

SEC. 1729j—5. In fixing the amount of the weekly payment, regard shall be had to the difference between the amount of the average weekly earnings of the employe before the accident and the average amount he is able to earn after the accident, and to any payment other than wages which he may receive from the employer on account of his injury during the period of his incapacity.

SEC. 1729j—6. The sum payable under this act in case of the death of the injured employe shall be paid to his legal representative, or, if he has no legal representative, to his dependents, or if he leaves no dependents, to the person to whom the expenses for the burial and last sickness are due. If the payment is made to the legal representative of the deceased employe, it shall be paid by him to the dependents or other persons entitled thereto under this act.

Lump Sums and Weekly Payments

SEC. 1729j—7. Whenever the amount of the compensation paid under this act shall be settled or awarded in a lump sum, it shall be the duty of the committee, arbitrator, arbitrators, or judge to order such part of said sum as may be just to be deposited with the treasurer of the county, where the proceeding occurs, to be paid by said treasurer to the employe in such regular payments as they may deem for the best interests of said employe.

SEC. 1729j—8. When any weekly payment has been continued for not less than six months, the liability therefor may, on the application by or on behalf of the employer, be redeemed by the payment of a lump sum, to be fixed in the absence of agreement by arbitration as hereinafter provided.

SEC. 1729j—9. Any employe receiving weekly payments under this act, who has given his employer a notice of injury as herein provided, shall, if requested by his employers, from time to time, submit himself for medical

examination to a physician or surgeon authorized to practice medicine under the laws of Wisconsin, furnished and paid by the employer, which physician shall furnish said employer with a certificate, setting forth the physical condition of said employe. If the employe refuses to submit himself to an examination required herein, his rights under this act to compensation shall be suspended, and may be forfeited.

SEC. 1729j—10. No payment made under this act shall be assignable or subject to attachment, or be liable in any way for debts.

Arbitration

SEC. 1729j—11. Any employer and his employes may choose a committee equally representing their respective interests, which committee may consider and adjust matters of dispute under this act between employers and employes, unless either party objects by a notice in writing to the other party to such action by said committee in relation to any particular matter, before it shall proceed to consider such particular matter. Said committee may, however, in its discretion, and in default of unanimous agreement, shall, within three months, refer any matter in dispute to arbitration.

Litigation

SEC. 1729j—12. In the absence of agreement by the parties, any question or dispute arising under this act shall, within three months from the time such dispute arises, be submitted to arbitration, the procedure of which shall be governed by chapter 153 of the statutes of 1898, except as hereinafter provided, and when the parties interested shall not select an arbitrator or arbitrators within that time, the judge of any circuit court having jurisdiction of the dispute shall, upon motion, appoint an arbitrator to determine the question or dispute as aforesaid.

SEC. 1729j—13. Whenever the amount of compensation under this act shall have been ascertained, or any weekly payment amended, or any other matter decided by any arbitrator, a memorandum thereof shall be filed by said arbitrator in the office of the clerk of the circuit court for the county in which said decision was rendered in manner and form prescribed by said court. The said clerk shall file such memorandum without expense to any party, with other memoranda of a similar nature, which shall be accessible to all interested parties or their attorneys. Such memorandum shall for all purposes have the same force and effect as a judgment of the court; provided, that the

same may at any time be corrected by order of any justice of the circuit court.

SEC. 1729j—14. The proceedings for compensation under this act shall take place in the county where all the parties reside, and if they reside in different counties, then the proceedings shall take place in the county wherein the accident occurred from which said proceedings shall arise. The hearings in regard to said matters shall be held in the places most convenient to all the interested parties.

SEC. 1729j—15. The justices of the circuit court may make such rules as they may deem necessary for the proper conduct of proceedings under this act, as far as they pertain to the said court, its officers and the arbitrators appointed by them as hereinbefore provided.

SEC. 1729j—16. No court fees shall be paid by any party in relation to any proceedings in the circuit court, or for the entry or filing of any original papers pertaining to matters arising under this act. No taxable costs shall be incurred by either party in any proceedings before an arbitrator under this act except that the circuit court of the county where the proceedings occur may, upon motion and proper showing, fix the fees to be paid any arbitrator, not to exceed four dollars per day for actual service in hearing any matter, which said fee shall be paid by the county where the proceedings occur.

SEC. 1729j—17. (1) No proceedings for compensation for an injury under this act shall be maintained unless notice of the accident shall have been given to the employer within six months after the happening thereof, and unless the claim for compensation with respect to such accident shall have been made within six months after the occurrence of the same, or, in case of the death of the employe, or in the event of his physical or mental incapacity, within six months after such death or the removal of such physical or mental incapacity.

(2) Such notice shall be in writing and shall contain the name and address of the person injured, and shall state in ordinary language the time, place and nature of the injury, and shall be signed by the person injured or by a person in his behalf, or by his legal representative, or a dependent, in the event of his death; and such notice shall be served upon the employer, or upon one employer if there are more employers than one, or upon any officer of a corporation if the employer is a corporate body, by delivering the same to the person on whom it is to be served, or at his residence or place of business, or by mail by a registered letter addressed to the person on whom it is to be served at his last known place of residence or place of business.

(3) A notice given under the provisions of this act shall not be held invalid or insufficient by reason of any inaccuracy in stating the time, place, or nature of the injury, if it is shown that there was no intention to mislead, and that the employer was not in fact misled thereby.

SEC. 1729j—18. (1) If any employer enters in a contract, written or oral, with an independent contractor to do part of such employer's work, or if such contractor enters into a contract with a sub-contractor to do all or any part of the work comprised in such contractor's contract with the employer, or if any sub-contractor enters into a contract with any person to do all or any part of said work, as contractor, and such employer would, if such work were executed by persons immediately employed by him, be liable to pay compensation under this act to those persons, such employer shall be liable to pay to such persons any compensation which would be payable to them under this act by such independent or sub-contractors, or other persons, if such independent or sub-contractors, or other persons, were employers to whom this act applies.

(2) Such employer, however, shall be entitled to recover indemnity from any other person who would have been liable to such persons independently of this section.

(3) This section shall not apply to any contract of such independent or sub-contractors which is no part of, or process in, the trade or business carried on by such employer.

Right of Suit Retained

SEC. 1729j—19. If an employe sustains an injury for which compensation is payable under this act, and which was caused under circumstances creating a legal liability therefor in some person other than his employer, such employe may, at his option, proceed independently of this act to recover damages against such other person, or against his employer, for compensation under this act, but not against both; and if compensation be paid under this act under such conditions, the employer shall be entitled to recover indemnity therefor from such other person.

SEC. 1729j—20. If in any case of accident the employe shall elect to bring an action against his employer, and upon the hearing thereof it shall be determined that he has no cause of action, said employe may nevertheless recover the compensation he is entitled to under this act, if he then and there requests the court rendering said decision to assess said compensation; whereupon the court hearing said matter shall proceed to assess the amount he is entitled to under this act as in other cases, but de-

duct from such compensation all or part of the costs, which, in its judgment, have been caused by the plaintiff bringing the action instead of proceeding under this act.

Sec. 1729j—21. Whenever an employer becomes liable under this act to pay compensation to a person, and is entitled to any sum from insurers due to an employe under such liability, the person shall have a first lien upon the sum aforesaid for the amount so due him, and in case said employer is insolvent, or committed an act of insolvency, or makes a composition or arrangement with his creditors, any judge of the circuit court may order the insurers to pay over such sum to the persons entitled thereto under this act.

Other Schemes Substituted

Sec. 1729j—22. If the state commissioner of labor, after taking steps to ascertain the views of the employer and workmen, certifies that any scheme of compensation, benefit, or insurance for the workmen of an employer in any employment, whether or not such scheme includes other employers and their workmen, provides scales of compensation not less favorable to the workmen and their dependents than the corresponding scales contained in this act, and that, where the scheme provides for contributions by the workmen, the scheme confers benefits at least equivalent to those contributions, in addition to the benefits to which the workmen would have been entitled under this act, and that a majority (to be ascertained by ballot) of the workmen to whom the scheme is applicable are in favor of such scheme, the employer may, whilst the certificate is in force, contract with any of his workmen that the provisions of the scheme shall be substituted for the provisions of this act, and thereupon the employer shall be liable only in accordance with the scheme, but, save as aforesaid, this act shall apply notwithstanding any contract to the contrary made after the commencement of this act.

Sec. 1729j—23. The commissioner may give a certificate to expire at the end of a limited period of not less than five years, and may from time to time renew with or without modifications such a certificate to expire at the end of the period for which it is renewed.

Sec. 1729j—24. No scheme shall be so certified which contains an obligation upon the workmen to join the scheme as a condition of their hiring, or which does not contain provisions enabling a workman to withdraw from the scheme.

Sec. 1729j—25. If complaint is made to the commissioner

by or on behalf of the workmen of any employer that the benefits conferred by any scheme no longer conform to the conditions stated in section 1729j—22, or that the provisions of such scheme are being violated, or that the scheme is not being fairly administered, or that satisfactory reasons exist for revoking the certificate, the commissioner shall examine into the complaint, and, if satisfied that good cause exist for such complaint, shall, unless the cause of complaint is removed, revoke the certificate.

SEC. 1729j—26. When a certificate is revoked or expires, any moneys or securities held for the purpose of the scheme shall, after due provision has been made to discharge the liabilities already accrued, be distributed as may be arranged between the employer and workmen, or as may be determined by the commissioner in the event of a difference of opinion.

SEC. 1729j—27. Whenever a scheme has been certified as aforesaid, it shall be the duty of the employer to answer all such accounts in regard to the scheme as may be made or required by the commissioner.

SEC. 1729j—28. The commissioner shall include in his annual report the particulars of his proceedings under this act.

SEC. 2. All provisions in the statutes inconsistent with this act are hereby repealed.

SEC. 3. This act shall take effect and be in force from and after its passage and publication.

This bill is not offered as a satisfactory working out of the English plan in all respects, but it will give the reader a concrete idea of the plan. Employers do not like the idea of having an additional liability imposed upon them without being freed from the possibility of a damage suit, and from the standpoint of the workingman the bill would not be entirely satisfactory because it does not give him adequate insurance. It does not provide for full medical aid. Probably the framers did not wish to make the burden upon the employer too great, considering interstate competition, but no bill can be regarded with entire satisfaction that does not give the work-

man the opportunity of getting, even if he must pay something himself, a safe and cheap insurance that will pay adequate benefits.

In England the compensation act is regarded as a successful piece of legislation, but is recognized as a step toward a compulsory insurance system. When a revision of the law was under discussion in Parliament in 1906, an amendment was proposed as follows:

This House desires such recognition and guarantee of insurance as to prevent the defeat of legal expectation of compensation created under the law.

In speaking upon this amendment, the Secretary of State for the Home Department (Mr. Gladstone) said:

I agree that the principle of compulsory insurance, whether it is in the form adopted by France, that of a central Government fund, or a national bank guarantee, like Italy, or whatever form it takes, is a principle which we believe is the right one and must as soon as practicable be adopted as a general solution of the question. Therefore, Sir, I can assure my right hon. friend, on behalf of the Government, that we are in full sympathy with the principle of his Amendment, and I see no reason why there should be any delay—certainly no unnecessary delay—in opening up a practical inquiry into the question of a general scheme of compulsory insurance. Whether it should be done this year or next is a matter for consideration. All that I can say is that the Government are ready to look into the matter with the intention of adopting the principle embodied in my right hon. friend's amendment, viz., that the workmen, having been given

the right to compensation by the statute, shall as far as possible be guaranteed that compensation when he meets with an unfortunate accident. (Parliamentary Debates, April 4th, 1906.)

IV.—Compulsory Insurance

Compulsory insurance in one form or another is the rule among the nations of Continental Europe, with, however, considerable differences in methods of organization. A proposed Swiss law compels employers to insure with a government bureau. In Germany employers' associations organized by industries have the immediate administration in charge; in Austria the employers' associations are organized by territorial districts; and in both of these countries the employer has no choice as to how he will meet the obligation to insure his workmen against accident; he must join the organization prescribed in the law. In Italy, on the other hand, there is an obligation to insure, but an option is given. This form combines optional features along with the compulsory principle and is chosen for a somewhat detailed presentation.*

THE ITALIAN ACCIDENT INSURANCE SYSTEM

1. The National Workingmen's Accident Insurance Fund. This was established by a law of 1883 authorizing the Minister of Agriculture, Industry and Commerce to enter into a conven-

* Using Zacher, Die Arbeiterversicherung im Auslande, Heft VI, VIa and VIb, 1899–1908. A. Troschel, Berlin-Gross-Lichterfelde.

tion with some of the leading banks to establish a fund for the insurance of workingmen against accident. The government was to contribute simply the free use of the postal savings department in conducting the business and the documents were to be exempt from stamp duties, the actual administration being in the hands of one of the largest banks. The insurance in this fund was entirely voluntary, and might be in any one of the following three forms:

a. Individual workmen might purchase policies for themselves;
b. The employer or a society might insure a body of workmen as a class;
c. An employer might purchase a policy which insured his workmen against accident and himself against the civil liability for accidents.

The results were disappointing. From 1884 to 1897, the year before a compulsory insurance system was enacted, the number of workingmen insured increased to only 162,855. This fund still exists, and is a part of the new system.

2. In 1898 a new departure was taken by making the employer responsible for the insurance of his workingmen, with the result that today over one and a half million workingmen in Italy are insured. The law of 1898, as consolidated with amendments in 1904, is in substance as follows:

I. Scope of the law: Workmen employed in mining, quarrying, transportation, building, engineering, electrical work, in operating agricultural machinery, and in factories where mechanical power

is used and where more than five men are employed, are included, and foremen are also included if their earnings are not more than $1.40 per day and are paid at intervals of not longer than one month.

II. The prevention of accidents is under the joint supervision of the Minister of Agriculture, Industry and Commerce and the officials of the various insurance agencies.

III. Insurance.

1. The workmen included in this act must be insured, and the obligation to insure rests upon the employer, whether private or public.

2. The insurance is at the expense of the employer for all cases of death or injury resulting from industrial accidents, if the incapacity is for more than five days. In building, the law also applies when less than five persons are employed, if the work is done outside of the building by means of scaffolding.

3. The insurance benefits are as follows:

(*a*) In case of total and permanent incapacity, six times the annual earnings, but not less than $600.

(*b*) In case of permanent partial incapacity, six times the reduction in annual earnings, which are not to be taken as less than $100.

(*c*) In case of total temporary incapacity, one half wages during such incapacity.

(*d*) In case of temporary partial incapacity, one half the reduction in earning capacity during such incapacity.

(*e*) In case of death, five times the annual earnings. In all cases of accident the employer must also grant first aid. Detailed provisions are given for distributing the death benefits among widow and children.

The benefits, as a rule, are paid as pensions and not as lump sums.

4. Contracts to set aside the payment of the legal benefits or to reduce them are void.

5. It seems unnecessary to reproduce here all of the details regarding the payment and revision of benefits, but one point is of special interest: in disputes as to the amount of benefit, it is not necessary to employ a lawyer, and the fees are fixed as follows: If the amount in dispute is not more than $10, the fee is ten cents; if from $10 to $20, twenty cents; and for each additional $20, forty cents.

6. When an injured person has been granted a certain pension, it is unlawful for him to sell or mortgage it.

7. In the case of persons employed in the public service or on public works, the insurance is effected in the National Accident Fund; the employees of private enterprises may be insured in approved private insurance companies; or establishments employing more than 500 persons may conduct their own insurance funds, but in this case a guarantee deposit must be made. Employers may also form mutual insurance associations if they together employ 4,000 persons. The railways have separate funds.

8. The Government is empowered, when the peculiar conditions in an industry demand it, to organize a compulsory insurance association for that industry. This has been done with respect to the match industry.

9. Employers who insure as prescribed by law are free from damage suits for injuries, unless the act causing the accident could be made the ground for a public prosecution, in which case civil liability also remains.

10. Failure to report an accident within three days, subjects the employer to a fine of from $10 to $20.

The general features of the Italian system appear from this outline to be that industrial accidents are regarded as a trade risk which is to be borne by the employer as one of the expenses of production. When he enters a dangerous industry, the state says to him: "You must insure your men, but you may do it in any one of a number of ways." He may organize his own fund, if he is a large employer; he may coöperate with other employers; or he may buy a policy from a private insurance company; or he may make his payment directly to the National Insurance Fund, which is the center of the insurance system. It works out standard policies and rates. Its life is perpetual, and to it may be transferred any obligations which a private insurance fund wishes to terminate by the payment of the present value of the pensions due workingmen. The employer is freed from the vexation of damage suits.

THE AMERICAN CONSTITUTION

May we not expect that the American states will work out some such solution for their accident insurance problem? It combines the maximum amount of freedom that is compatible with effectiveness. But the Constitution? A constitution which contains no direct prohibitions regarding insurance and which has been interpreted to permit the compulsory reduction of the hours of certain classes of adult males to eight per day and the compulsory reduction of the hours of adult women to ten per day will also

be found to permit the compulsory insurance of workingmen when that is recognized to be necessary to eliminate a public scandal. When we recognize clearly that there is such a thing as a trade risk, that each industry has its accident rate, that for every thousand of ordinary human beings who enter a dangerous enterprise there is certain to be a considerable number killed or mutilated, will it then seem unreasonable that the insurance of the employees should be made a condition precedent to the operation of that enterprise?

But if the courts tell us that compulsory insurance is not constitutional, then a system of a definite liability, regardless of negligence, will be next in order of desirability. It would be desirable to have in each state a commission or board to supervise the system and hear appeals before they are taken to the courts. The suggestion has also been made that it would be possible to overcome the employer's objection that he does not wish to be subject to two forms of liability, as in England, by permitting the employer and employee to make a contract agreeing to the elimination of one form of liability. Thus the act would say in substance: The employer is responsible to his injured employee in all cases, regardless of negligence, for benefits according to the scale specified, or he may be sued as at present, unless the following contract has been signed previously: "In consideration of a ten per cent. increase in the scale of benefits, the employee agrees to relinquish the right to bring suit against the employer for damages independently of this act, on account of such injuries." This

would be a compromise between the two bills that have been reprinted in these pages.

Reference should be made in conclusion to one objection which is frequently urged against both compulsory insurance and absolute liability; that is, the inadvisability of putting a burden upon the employers of one state without corresponding action on the part of other states. This objection is completely answered by pointing out that it is possible so to arrange the scale of benefits that the burden will not be greater than is caused by the present law of negligence, as a starting point, and when the policy has become general the scale of benefits can be readjusted. The basis of the movement for industrial insurance is not the desire for increased taxation of the employer but it is the expeditious and economical distribution of the money that is now being spent wastefully on account of accidents.

WHAT PRIVATE INITIATIVE HAS DONE ALREADY

Throughout the United States there are now in existence large numbers of " benefit systems " installed by employers for their own employees. These systems diverge widely. Sometimes the employer bears the whole cost; sometimes the employees bear most of it. As for the benefits paid during incapacitation, they sometimes tend to prevent the injured men from suing out their cases in court and they sometimes have no such effect. Some of the benefit systems are extremely popular; others are extremely unpopular. Several of them are notable labors of love; several are crafty instruments of oppression. They are too various and too complicated for description here. A fully adequate account of them may be found in " Industrial Insurance in the United States," by Charles R. Henderson, The University Press, Chicago, 1909.

PRESENT AND FUTURE HAPPENINGS

Three states now have commissions charged with the investigation of the subject of automatic compensation for industrial accidents.

The history of the events leading up to the appointment of the Minnesota commission teaches the same lesson which on a previous page in this pamphlet was drawn from the history of the events leading up to the enactment of the Illinois hazardous machinery law. *So far as possible, let all disputed points between labor and capital be fought out in personal preliminary conferences and not in the legislature.*

The Minnesota story is so true to human nature in all its details, and also so encouraging, that a condensed narrative of it is here reproduced from a speech made at the City Club of Chicago in April, 1909, by Mr. William E. McEwen, Minnesota Commissioner of Labor:

"I come, gentlemen, from the North Star State where we have been trying to solve a problem that presents itself in some form in every state in this Union. As an officer for sixteen years of the Minnesota State Federation of Labor—you see I bring fairly good credentials as a labor agitator—I have attended every session of the Legislature, as my predecessors had done

for some time before, in an attempt to seek the abrogation by law of the fellow servant rule in personal injury cases.

"We had some very drastic measures introduced early in the game. They were referred to the judiciary committees before whom we urged their passage. But we always encountered representative employers of the State who fought and defeated us every time. By these proposed acts we attempted to define certain industries as hazardous and beyond the jurisdiction of the fellow servant rule. At each successive session of the Legislature we gradually took off one limitation after another until, two years ago, we offered what we considered a fairly conservative bill. We had given up all the expectations of twenty years ago and thought if we could get this modest bill passed, upon it we could build something bigger and better in time to come.

"When I appeared with other labor men before the judiciary committee, I found arrayed against us on the other side of the room the president of the Minnesota Employers' Association and his colleagues. They enlarged upon what would happen to Minnesota industries if this law was passed. They said that the industries would be required to close their doors and go out into Wisconsin, or into Dakota, or Iowa, or into some other state where they were making no attempt to pass such drastic measures. As a result of this talk our bill was again defeated.

"At this last session of the Legislature, shortly after I was appointed Commissioner of Labor, I met in the corridor of the State Capitol Mr.

Gillette, the president of the Minnesota Employers' Association. We looked at each other rather suspiciously and he said: 'What are you doing here?' I told him I thought I was there for the same reason that brought him there. We shook hands and talked about the weather and finally he opened the subject: 'What are you boys going to do about employers' liability this year?' I said, 'We are going to give you another fight.' 'Well,' he said, 'I am going to beat you again.' 'Well, we will be here two years from now if you do.' Finally, I said, 'Don't you ever get tired of fighting?' 'Well,' he said, 'I never started it. You boys started the fight and I simply had to fight in self-defense.' 'Well, isn't it about time we got a little closer together? Have you been giving any thought to this question of workingmen's compensation?' 'Yes,' he said, 'I have given it some serious thought of late.' Well, we began to talk and stood in the corridor for over an hour discussing the evils, from the standpoint of both the employer and the employee, of the present obsolete and iniquitous principles covering the question of employers' liability. We found after talking for some time that we did not differ very much on the fundamental issue involved. We disagreed somewhat in details, but we both agreed that it was an inhuman system that compelled a man to wage a conflict in court in order to secure redress for injuries done in an industry.

"The next day he rounded up some of his colleagues and I some of mine and in my office we talked it over a little more at length and we suggested that it would not be a bad thing if the

Board of Directors and officers of the Minnesota Employers' Association and the officers of the Minnesota State Federation of Labor should meet in conference and discuss the question just as we had done in this informal way. They demurred a little. 'It might bring up a lot of things that happened in times gone by, how we fought on the industrial field, and perhaps bring about a wider breach than now exists.' I asked them then to come as my guests and so finally on a Sunday afternoon we met in the State Capitol and held a round table. On one side were the president and directors of the Minnesota Employers' Association and on the other side were the members of the labor organizations of Minnesota, each, let me add, with a chip on his shoulder.

"Fortunately another condition presented itself. The State Bar Association at its meeting in Duluth in June had heard a very able paper read by a leading member of the bar of Minnesota on the question of employers' liability, advocating a change in the whole principle. As a result the Committee on Law Reform of the State Bar Association had been directed to prepare a bill to be presented to this session of the Legislature. This committee worked earnestly. Mr. Mercer, the chairman, worked night and day at a great personal sacrifice in the hope that he might be able to present something at this session, but found that it was a physical impossibility to do so. It occurred to us that it would not be a bad idea to bring the lawyers in, too, and so we invited the Committee on Law Reform of the Minnesota State Bar Association to join with

the employers and the employes in the hope the three interests involved might be able to work out something. It was rather fortunate, I think, for the employers and employes that the lawyers were there. I never had very much use for lawyers in my life as a workingman but I finally found that they did serve society in some respects and that while they helped to create a great many contests between men, yet they were also pretty good pacifiers. At any rate they were there that afternoon to pour oil upon the troubled waters. In a conference of something like five hours we went over the question from Alpha to Omega. Each man in that conference discussed the question from his point of view—the labor man, the employer and the lawyer, and we found that it began to blossom out into a pretty serious problem, into a problem too big to solve at one session of the Legislature by one legislative act.

"We knew that Illinois had appointed a commission on this subject. We knew that other states had made scientific investigations and so we concluded after several conferences that the best thing to do was not to attempt to secure any legislation on the old principle at this session of the Legislature, but to unite in a petition to the Legislature asking that a commission be appointed to consist of an employer and an employe, and I think it said a neutral or studious person—but that really meant a lawyer—who would investigate the whole question and bring in a bill two years from now under the provisions of which every man who was injured in an industry, whether through his own

negligence or that of a fellow servant or because of the hazard of the industry, should receive a sure and a certain compensation for the injury. That was the program.

"Accordingly, we presented to the Governor the following petition:

"'JOHN A. JOHNSON, *as Governor of Minnesota:*

"'HONORED SIR: The undersigned representing respectively the Minnesota Employers' Association and the various labor organizations as shown by their signatures hereto respectfully petion your Excellency to suggest in proper form to the Legislature of Minnesota now in session the passage of laws to the following effect:

"'1. An act appointing a non-partisan commission of three members, one of whom shall be a representative of employers, another of whom shall be a representative of employes, and a third a neutral and studious member, empowering them at the expense of the State to thoroughly investigate the propriety of transforming the present system of compensation to employes from the basis of negligence to that of a risk of the industry, and to report to the Governor before the next session of the Legislature a plan for such change, if possible, consistent with our constitutional systems, and equitable as between the employer, the employe, and the State.

"'2. An act requiring all employers, and employes, too (in so far as possible), and all policemen and firemen, and hospitals and doctors, rendering relief to the injured or deceased, to re-

port the natures and the causes of the accidents with reasonable details, including wages, through proper channels to enable the statistics to be gotten by the Labor Department of this State, and the accidents classified according to the various industries to get a proper basis from which the Commission may determine, and include, an equitable system in its report.

"'Our reasons for this petition are, briefly stated:

"'1. That there are a great many thousand accidents in this State, the exact number of which, and the classified reasons therefor, cannot from any data now made be obtained; there were in 1907, 92,178 either killed or injured throughout the United States in the course of their employment on 229,951 miles of single track railroads, or about one for each two and one-half miles of road operated. The general list in all industries is many times as great. This single year killed and crippled about five and one-half times as many in the peaceful occupation of railroading as were killed and injured upon the Union side in the hostile occupation of war at the battle of Gettysburg. There is every reason to believe that Minnesota has had at least her proportion of these accidents, and the information should be placed at the disposal of the Commission.

"'2. We are convinced that a majority of the accidents that now happen in the course of employment occur by reason of the dangers incident to the employments, and without fault upon the part of either the employer or the employe; this, under our present system, prevents any recovery by the employe for his injuries in a majority of

the cases if he prosecutes his claim from an honest standpoint, and he ought not to be tempted to prosecute it from any other standpoint.

"'3. The employe essentially is forced to bear the pain, physical suffering and privations incident to all such physical injuries, and at the present time he is required to assume also the financial risk incident to such accidents.

"'4. The injured is not certain that he can recover when he is injured; he must give from one-quarter to one-half of what he does recover, if at all, to pay for the expenses and fees of his litigation necessarily taken upon a contingent basis, as a general thing.

"'5. A very small percentage of the amount which the employer now pays to secure himself against accidents actually goes to compensate the man who is actually injured and this goes in such uneven proportions, and in such times and amounts as to render very little aid to the injured and those dependent upon him at the times and under the circumstances when most needed.

"'6. The economic loss between what it costs the employer and that which the employe receives is altogether too great to be consistent with even reasonable business expenses or methods.

"'7. To the employer the question of whether there is a liability for an accident cannot be definitely answered; when there is a liability the amount of recovery that can be had is destructively uncertain; great financial risks and expenses must be taken by the employer in the way of insurance, counsel fees and otherwise; he is badly burdened, yet not secure. With him an accident means a lawsuit which often cannot be

fairly settled and which he must fight, although it hurts his conscience, creates bad mutual feelings, and is a mere gamble as to results.

"'8. The cases that are tried are often matters of speculation as to whether they come within the rules of law allowing them to be submitted to juries, and verdicts are seldom alike on the same facts; the line of law is often so closely drawn that the courts must almost guess at the right of recovery or defense.

"'9. The slight change of the situation of parties or objects, or the failure to give or the giving of verbal directions are so easily forgotten and changed, and are so often controlling that great temptation to use unconscionable methods both by the prosecution and defense, results from the uncertainties of accidents to the unfortunates.

"'10. Accidents now generally mean lawsuits; such lawsuits mean speculation; such speculation means hostility, if not disruption, between employer and employe; it leaves both parties in such constant fear and apprehension that their mutual interests cannot be best preserved and furthered.

"'11. The public is put to great expense in the administration of its courts, its hospitals, its charitable institutions, and the individual citizens are greatly harassed by private charity as a result. The foreigner is invited and comes with his labor; there is little mutual acquaintance or knowledge between him and the employer; the employer's duties must be delegated; their relations are not always friendly; and an injury occurs; insurance is carried; speculative agents acquire a lien upon the injured's cause of action; they may not be willing to settle at a fair com-

pensation, and if they do, take a large portion of the funds; the insurance company steps in and removes the humanitarian features and the feelings one degree further; its sub-agents are anxious to make records irrespective of the merits; it is a business proposition from both sides from which both are willing to sacrifice feeling, sympathy and necessity for the sake of a speculative lawsuit, which in any event is essentially destructive of the mutual feeling between the employer and the employe, and hazardous in its financial consequences to both.

"'12. None can study the question fairly, honestly and intelligently without being impressed with this simple fact that the present system is altogether wrong and unsatisfactory in that it has an entirely wrong basis to meet the present conditions.

"'13. Twenty-two foreign countries, consisting of the following: Austria, Belgium, British Columbia, Cape of Good Hope, Denmark, Finland, France, Germany, Great Britain, Greece, Hungary, Italy, Luxemburg, Netherlands, New Zealand, Norway, Queensland, Russia, South Australia, Spain, Sweden and Western Australia, have adopted systems more or less in conformity with the idea of changing the basis from that of negligence or fault to that of rightful compensation or insurable risk as an incident of the business, as in a fire insurance risk.

"'14. The Government of the United States has attempted legislation looking toward this end in providing compensation for injuries received upon the Isthmian Canal, in legislating with respect to interstate commerce, and there are now,

we understand, two bills before Congress attempting to work out some such system as we suggest.

"'15. A commission was appointed in the State of Illinois in the year 1905 to prepare and report a proper bill to the Governor of that State, and upon careful investigation reported two forms of bills, neither of which, as we are informed, has yet passed. A similar bill was drafted in New York, but has not passed. Massachusetts has had a commission to investigate this among other labor questions in recent years, and various other States, notably Wisconsin, have been gathering information looking toward the same end.

"'16. The President of the United States, as well as the Labor Commissioner at Washington, has called the attention of Congress to the fact that the federal and State governments of America are notably behind the remainder of the civilized world upon this question, and that it is a matter of humiliation in international conferences so far as the federal government is concerned.

"'We have been trying for some time to ascertain, as have others in this State, notably the State Bar Association, what would be proper legislation to meet the demands of this situation, and have come to the conclusion that our interests are to a large measure mutual, as are the interests of the public.

"'We believe that legislation along the lines that would change the basis of recovery from that of fault (which essentially accuses a man's good faith, or his ability), to that of shifting the financial risk as a certainty upon the employer,

like other expenses of the business, and relieving him of the hazardous uncertainties and expenses incident to present methods of defense, would leave both parties and the State in reasonably satisfactory condition without imposing upon the employer that degree of taxation which would either tend to drive industries from, or keep them out of, this State as a result.

"'We are satisfied, too, that this is a subject of such importance and complexity that no better service could be done to the State than to give to it a reasonable means of investigation and a competent commission to make that investigation.

"'We, therefore, recommend that in some appropriate way you may see fit to transmit a request to the Legislature for the bills above indicated, that the State may know, after the study necessary upon a subject of this importance, what legislation should be enacted to meet the exigencies of the situation.'

"This petition was signed by the President of the Minnesota Employers' Association and by the President of the Minnesota State Federation of Labor and eleven other representatives of labor.

"On the same day the parties to this petition made an agreement as follows:

"'That it is the mutual understanding of all of the parties signing the said memorial that they will each use their influence to carry the same out in good faith and to undertake no legislation upon the subject except along the lines indicated until a fair opportunity to construct such legislation is made, and that any substantial breach of this understanding by either of the in-

terested parties may be treated by the other as relieving them from further support of this theory.

"'(*Signed*)
"'W. E. McEwen,
"'*Commissioner of Labor.*
"'Minnesota Employers' Association,
"'*George M. Gillette,* President.'"

"Now, when employers, employes and lawyers can get together on a program of this character, you would naturally expect the members of the Legislature to jump at the idea of thus pacifying all interests and appoint a commission, but not so. You know in Minnesota we have got a Democratic Governor who has been Governor for three terms. We also have a Republican Legislature which is getting rather envious of a Democratic Governor who can be elected three times in a Republican State, and so they are trying to set up obstacles here and there to prevent him from doing things.

"We knew this was a new question and that public opinion would have to be moulded considerably in order to make it popular and so we went in to the Governor of Minnesota and presented the situation to him. He wrote a special message to the Legislature and submitted the petition in connection with his special message. Immediately it was thought that politics were involved, and a struggle began.

"The Speaker of the House on a motion of the Legislature appointed a committee of five to draft a bill for this session. For twenty years we had been trying to get the Legislature of

Minnesota to pass a law abrogating the fellow servant rule and none of our bills ever got beyond the judiciary committee. Immediately after the presentation of the petition of employers, employees and attorneys, fifteen bills were introduced covering the question of workingmen's compensation and industrial insurance. We never had more friends in our lives before. The majority wanted to pass some sort of a compensation measure right away in order that we might take care of those maimed and halted in industry. But common sense prevailed in the end. After a great deal of hard labor the lower house finally passed the commission bill, and it is now pending before the senate where we do not anticipate any trouble in its final passage.

"I want to say right at this point that there were many opportunities offered to the employers and employees to separate and look out for themselves. The Legislature offered a bill which gave us a little more than we now receive but it was not satisfactory. It was based on a false principle and yet the workingmen recognized that it gave labor a little more than it now possessed, and we who had been officers of the trades unions there began to feel as though we might be making a mistake. Therefore we prepared in printed form our petition to the Legislature and a copy of the proposed act framed by the committee of the lower House and submitted them both without prejudice to the labor organizations of the state, but even when the men saw that they were getting a little more under this proposed bill than they were getting before, they, with four exceptions in the four hundred trade

unions in Minnesota, voted against indorsing the proposed legislative bill but indorsed, instead, the commission plan in the hope that they would be able to solve this question upon a scientific basis in a short time.

"On the other hand, the employers were under pressure. During the progress of the struggle, the charge was made that politics was being played. It was said that I was an appointee of Governor Johnson and that Governor Johnson would get glory out of the situation. They thought it might help him to be President of the United States some day, and so the Republicans in the Legislature tried to stop it. The employers were offered all sorts of advantages to break away from us. If they would only permit the Governor and Attorney General and Secretary of State to appoint the commission, they could have any kind of a labor representative on the commission they wanted. I want to say, for the employers of Minnesota, that they turned down every offer of that character. It was within their power to say whether or not they would have a labor man who would yield to influence, but they did not do it. They said, 'No, we went into this thing with the labor boys in good faith and when a commission is to be appointed we want the commissioner who is appointed to be a man who is duly accredited and is representative of the sentiments and thoughts and hopes and aspirations of the labor movement of Minnesota.' So we have got together very nicely so far, and I hope now that this thing is about settled so that the commission can get to work from now on.

"I had a talk with the representative of the employers' association the other day in the State Capitol. I said, 'We have got along very well so far and have begun to appreciate some of the advantages of working in conference. Now, there is a great question that is causing many conflicts in Minnesota and that is the question of apprentices. We are both wrong, both have reasons to be wrong, but we will never solve the question by fighting. We got together on this question of employers' liability. Don't you suppose it is possible for the same interests to get together and perhaps be able to get a system of apprentices, or an understanding as to how an apprentice system should be worded in Minnesota without the necessity of any more conflicts?'

"They said that was a mighty good idea, and so we hope very soon to get together on the apprentice question. We may be able in the not distant future to bring the forces together on the questions of wages, conditions of toil, hours of labor and other problems. We have not been together in twenty years in Minnesota. We have been fighting every year, but out of this may grow a program that will bring about industrial peace in that State."

Mr. McEwen's whole prophecy of general industrial peace is not likely to be fulfilled in our day but that part of it which related to a harmonious study of the question of compensation has already been justified. Minnesota now has an Employees' Compensation Commission. Its members are Mr. George M. Gillette, President of the Minnesota Employers' Association; Mr. H. V. Mercer, Chairman of the Committee on

Law Reform of the Minnesota State Bar Association; and Mr. McEwen.

Information with regard to the progress of the work of the commission can be secured by addressing Mr. William E. McEwen, Commissioner of Labor, State Capitol, St. Paul, Minnesota.

At about the same time a compensation commission was appointed in Wisconsin. It is similar to the Minnesota body in scope of purpose but different in character of personnel. It is a purely legislative commission. Its members are Messrs. Sanborn, Fairchild and Blaine from the upper house and Messrs. Ingalls, Culbertson, Egan and Brew from the lower house of the Legislature. Information with regard to its work can be secured from Mr. Paul J. Watrous, Secretary of the Wisconsin Legislative Committee on Industrial Insurance, Madison, Wisconsin.

The third state now represented by a compensation commission is New York. The New York commission is a specimen of the mixed type of commission. It includes both legislators and outsiders. The legislative members are Messrs. Wainwright, Bayne and Platt of the upper house and Messrs. Jackson, Lowe, Phillips and Thorne of the lower. The outside members are Mr. Otto M. Eidlitz, a building constructor, and Mr. George W. Smith, of the Lackawanna Steel Company, representing capital; Mr. Philip Titus, Railway Conductor, and Mr. John Mitchell, Mine Worker, representing labor; and Mr. Henry R. Seager, Professor in Columbia University, and Miss Crystal Eastman, Secretary of the New York Branch of the American Associa-

tion for Labor Legislation, representing expert economic study. Information with regard to the methods adopted by the commission in pursuing its investigations can be secured from Miss Crystal Eastman, Secretary of the New York Commission on Employers' Liability, 1 Madison Avenue, New York City, N. Y.

These three commissions (Minnesota, Wisconsin and New York) met in an inter-state conference at Atlantic City in the summer of 1909. This was an important step. One of the most persistent (though one of the most delusive) arguments against automatic compensation is that the imposition of such a burden on the employers of any one state will cause them, or their trade, to move to some other state. If there were much force in this argument the existing differences (and they are great) in the rates imposed on the employers of different states by the employers' liability companies would already have caused immense migrations of capital from the states in which those rates are high to the states in which they are low. But no such migrations have taken place. Nevertheless it is well to have the argument still further weakened by as close an approach as possible to inter-state harmony of policy. The report of the Atlantic City conference can be secured from Mr. William E. McEwen, Commissioner of Labor, Capitol Building, St. Paul, Minnesota.

The three state commissions now in existence have entered immediately into the labors of three other recent state commissions—those of Connecticut, Massachusetts, and Illinois.

In Connecticut a Special Committee Regarding

Legislation to Regulate the Liability of Employers made recommendations to the state legislature in 1907 and again in 1909. Its reports can be secured from Mr. William H. Scoville, Commissioner of the Bureau of Labor Statistics, Hartford, Connecticut.

In Massachusetts a Joint Special Legislative Committee, in 1908, made a report which embraced certain findings on the subject of employers' liability. Information regarding this report may be secured from Mr. Charles F. Gettemy, Director of the Bureau of Statistics, State House, Boston, Massachusetts.

But the most important of these three commissions was that of Illinois. It was appointed in 1905. It not only made a report but drafted a bill. This bill was taken to the legislature in 1907. It failed. But its moral and intellectual influence was very great and continues to be widely felt. It was the most carefully elaborated piece of compensation legislation so far presented to any American law-making body. Professor Charles R. Henderson acted as Secretary of the commission. He may be addressed at the University of Chicago.

The seed sown during the last five years bore fruit in the temperate and practical character of the accident discussion at the tenth annual meeting of the National Civic Federation at the Hotel Astor in New York in November, 1909. The sentiments expressed at that meeting by such men as Seth Low, Elihu Root, Dr. L. K. Frankel of the Metropolitan Life Insurance Company, Samuel Gompers, John Mitchell, and F. W. Ramsay of the Cleveland Foundry Company,

indicated that the subject of automatic compensation for accidents is emerging, even in this country, from the stage in which the question was "*Shall* we do it?" to the stage in which the only question is "*How* shall we do it?" Important information was presented to the meeting by Major Piorkowski of the Krupp Works at Essen in Germany, by Launcelot Packer of the Department of Commerce and Labor, and by A. H. Gill and J. R. Clynes of the British Parliament. Copies of the proceedings may be secured from Mr. Ralph M. Easley, National Civic Federation, 281 Fourth Avenue, New York.

The books, articles and reports so far mentioned bring the subject to the end of the year 1909. Legislators, employers, labor leaders, lawyers, and all public-spirited citizens who wish to keep abreast of future developments may do so (1) by communicating with the secretaries of the three existing state commissions mentioned on pages 166 and 167 and (2) by communicating with the American Association for Labor Legislation and with the Wisconsin Legislative Reference Department.

The Wisconsin Legislative Reference Departments collects enormous masses of valuable material, including the latest news, on this and every other subject of contemporary legislative interest. Its director is Dr. Charles McCarthy. He should be addressed at the State Capitol, Madison, Wisconsin.

The American Association for Labor Legislation has resources which should be used to the utmost by all persons interested in labor legislation of any kind. It is affiliated with the Inter-

national Association for Labor Legislation. The International Association is really international. It is supported by active "national sections" in twelve countries and maintains an International Labor Office at Basel in Switzerland. This office at Basel is a semi-public bureau. Contributions to its support are made by many national governments. It issues numerous bulletins in which may be found minutely recorded the latest books, articles, investigations, government reports, official regulations, legislative proceedings and enacted laws relating to labor in all parts of the world. The American Association for Labor Legislation is in constant communication with the International Labor Office. It receives all its bulletins and distributes them in this country. It is the one best source of information with regard to the labor question as a whole. It has branches in several American cities but its headquarters are in New York. Its executive secretary (to whom letters should be addressed) is John B. Andrews, Metropolitan Building, New York.

IN CONCLUSION

THE question of compulsory automatic compensation for all industrial accidents is no longer a question. It is an answer. And it is shouted from every corner of the world.

For the assuagement of a universal social ailment there is now a universally recognized social principle, proved by all past experiment, accepted for all future action, unquestioned forevermore by any scholar, by any statesman, of any reputation, in any country.

It is a principle which has found its way even into the field of international diplomacy, a field in which no principle is suffered to appear till it has survived its period of hungry, daring, speculative adolescence and has matured into the condition of an amiable, plump platitude.

Sir F. Bertie, from Paris, sends a communication to Sir Edward Grey, in London. It is "A Dispatch from His Majesty's Ambassador, forwarding a convention between Great Britain and France, signed at Paris, in regard to Workmen's Compensation for Accidents."

This principle of automatic compensation, at home now in the correspondence of ancient nations, is equally a familiar figure in the statutes of regions which lately were wildernesses.

In the Canadian Northwest His Majesty, by and with the advice and consent of the Legis-

lative Assembly of the Province of Alberta, enacts a Workmen's Compensation Law, a law cast in a standardized mold from an international pattern, a law which in the remoteness of Edmonton could be discussed in terms of old understanding by a sojourning stranger from Zurich, a law which in effect says to the Workman: "You earn your living not only by the sweat of your brow, but in the blood of your heart; you shall be paid out of hand for both!"

From Alberta the principle of automatic compensation traverses the international boundary line to the south and reappears in Montana. The Montana legislature establishes a State Accident Insurance Fund. It is on behalf of the coal industry. The employers put in one cent for each ton of coal mined. The employees put in one cent for each dollar of wages earned. The money is received, invested and disbursed by the state auditor and the state treasurer. The disabled miner gets a stipend proportioned to his previous income. The dependents of the killed miner receive a lump sum of $3,000. It may be a skillful application of the principle of automatic compensation. It may be a bungling application of it. But there it is, that principle! It is inevitable, because both intellectually and morally right.

In Illinois it continues to advance unretarded by the weight of the disapproval of the legislature of 1907. Governor Deneen has determined to appoint a second industrial insurance commission. He has listed the principle of automatic compensation among his settled policies. And in his "administration" bill for the con-

struction of the twenty-million-dollar Deep Waterway he carries that principle forward by indirection, insinuating it into the march of a great public project. The bill provides that the Board of Deep Waterway Commissioners shall fix a scale of benefits to be paid for injuries and deaths happening in the course of the work of construction, that if the work is done by the state the benefits shall be paid by the Board, that if the work is done by contract every contractor shall carry sufficient insurance to guarantee the payment of the benefits, and that all payments shall be made, not for the legal merit of the death or injury but for the fact of it, without litigation.

These incidents, from Paris, from London, from Alberta, from Montana, from Illinois, are nothing but little chips of news which have chanced to come ashore on the editorial desk on the morning on which this pamphlet is being concluded.

Reader of this pamphlet, stand for just a moment beside the deep stream of development on which such chips of news in swelling multitudes are borne. Examine just a few of the books and articles to which allusion has been made in the foregoing pages. Consult just a few of the persons and organizations mentioned. Follow the course of the stream, just hastily, just summarily, from the time when it issued from the hard soil of economic study in the books of the German scholar Schaeffle to the time when it rolled in a cataract through the popular speeches of Theodore Roosevelt. Observe in the interim how it flowed through the best minds in all

countries. And you may trace its history before Schaeffle, if you please, its underground history, back into the deep-down, world's-thought-supporting works of Johann Gottlieb Fichte, now a century below us. It is an old stream now, with reminiscent scenery on its banks, recording the labors of great men long dead; labors, however, which have not died with them, for if you will pick up any bulletin of the International Labor Association you will see there, as your eye marks the close-set references to reports and laws from all five continents, the innumerable mouths through which the broadening torrent of their thought is discharging itself into the sea of world action.

You will perceive, after even casual study, that this is no sudden freshet, no creature of a spring rain. You will perceive that its origin is deep in soundly labored theory, that its course has been dug for it by informed statesmanship, that in its surface history of forty years it has wound its way through mountains of selfish opposition and across life-sucking sands of popular inertia, and that nevertheless it has gained volume with every decade till now it cannot possibly be dammed, or even diverted. It has reached the ocean. Its waters wash all human shores. And they saturate all human opinion not only on the subject of Industrial Accidents, but also on the subject of Sickness and also on the subject of Old Age, and also on the subject, finally, of Unemployment.

For what does automatic compensation for accidents propose? It proposes that out of our present income we shall lay aside a fund to meet

coming mishaps. No matter what line of attack an automatic compensation law may follow, no matter whether it purports to draw the fund entirely from the employer or even entirely from the employee, the issue is that it becomes a charge upon industry as a whole, that we all contribute to it in the cost of every commodity we produce and in the price of every commodity we buy, that we are all associated in a common prevision and anticipation of our future.

So far from attacking the present relationship between employer and employee, automatic compensation specifically recognizes it. The backbone of present so-called "Capitalism" (namely, the hiring of the unpropertied class by the propertied class to do work for wages) does not, because of automatic compensation, lose a single vertebra. Automatic Compensation has nothing whatever to do with Socialism, except that it is accomplished under the supervision of the state. So is war. And a state supervisor of an automatic compensation plan would have to be just about as much of a socialist as Secretary Dickinson is.

Dr. Schaeffle (known as "the father of industrial insurance"), in writing about the principle of automatic compensation, gave it its true name. He called it "Selbstfuersorge" (self-care). It is the antithesis of charity. It is the antithesis of what is commonly understood by "Paternalism." For this reason:

Automatic compensation, in any form, means that the participants in every business enterprise have to make provision in the present for the future; that they have to look forward and

prepare themselves to meet the financial shock of mishaps which are uncertain as to date but absolutely certain as to occurrence; that therefore they have to adopt the device of insurance; that accordingly all the participants in the business, whether employers or employees, are obliged, directly or indirectly, to pay the premiums out of which the insurance fund is maintained, and that finally when any of them are injured they are paid not in mercy by a kind lady, not in paternal beneficence by the state, but in the course of business by themselves, in strict justice out of their own money.

Which brings us to the climax of the whole discussion.

We have talked in this pamphlet almost exclusively about accidents. But if the principle which leads to compulsory insurance against accidents is once started on a free course, it plunges onward irresistibly to compulsory insurance against sickness, to compulsory insurance against old age, and possibly at last to compulsory insurance against certain phases of unemployment.

These four great continuous evils—loss of earning power by accident, loss of earning power by sickness, loss of earning power by old age, and loss of earning power by unemployment—are the permanent pitfalls which line the path of working life and which show in their depths an enormous proportion of all the poverty and misery in the world.

Unemployment, in the mass, is genuine. It is not imagined by the bookworm or originated by the hookworm. The sluggard's strenuous flight

from useful exertion, the tramp's poetic preference for the vernal roadside, the beggar's public whine for the price of a bed are subordinate, though eye-catching incidents. They argue a continuous and picturesque rejection of opportunity. But the bulk of unemployment is neither continuous nor picturesque. It happens jerkily and unobtrusively, in periods of a few days or a few weeks at a time, and when not the result of sickness or of bodily accident, is caused mysteriously, with the quickness and blindness of a dark-driven stiletto stab, by some sudden fluctuation in the industrial demand for labor—the loss of the German trade, the withdrawal of a contract, the success of a rival business firm, the drop in the price of hogs, the glut in the copper market, the invention of a new machine, the mere advent of a slack season. The exposition of the facts would require another pamphlet, but there may be found now, on pages 290 to 293 of the Eighteenth Annual Report of the Commissioner of Labor, a composite and conclusive picture of some of the elements in the case.

The trade conditions which demand twenty thousand men in the packing industry to-day and only fifteen thousand to-morrow—which are the conditions responsible for the bulk of Unemployment—are no more controllable by the employee than are sickness, old age, or physical injury.

The applicability of compulsory insurance, combined with work bureaus, to the simpler forms of genuine unemployment is now being experimentally developed.

Its applicability to sickness, old age, and physical injury is known and admitted.

For what is the sum of the whole matter but insecurity. And what is the answer to insecurity but insurance?

Finally, what is insurance but self-care?

The system of self-care, as a whole, however, is for the speculations and debates of coming years. We are here immediately concerned only with that part of self-care which deals with physical injury caused by industrial accidents.

What a small part! How radiant with healing light for the misery in the dark places of hazardous daily toil, but still how restricted in scope, how unanswerably triumphant in its past, how unadventurously certain of its future!

This pamphlet advocates no impromptu invention of amateur philanthropists. It exploits no freshly patented social-reform novelty. Its unoriginal task has been to emphasize the facts and to sharpen the arguments in an old field of industrial statesmanship. Its modest purpose is to hasten, by ever so small a margin of time, the day when the states of this Union will of necessity adopt a recognized remedy for a recognized wrong.

THE END

But if you chance to be placed in some superior station, will you presently set yourself up for a tyrant?

—EPICTETUS.